

# THE STATE OF TRANSPORTATION INFRASTRUCTURE AND SUPPLY CHAIN CHALLENGES

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(118-1)

## HEARING

BEFORE THE

### COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

### HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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FEBRUARY 1, 2023  
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Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

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Chairman

Jack Raddy, Staff Director

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Ranking Member

Katherine W. Dedrick, Democratic Staff Director

JANUARY 27, 2023

**SUMMARY OF SUBJECT MATTER**

TO: Members, Committee on Transportation and Infrastructure  
FROM: Staff, Committee on Transportation and Infrastructure  
RE: Full Committee Hearing on “*The State of Transportation Infrastructure and Supply Chain Challenges*”

I. PURPOSE

The Committee on Transportation and Infrastructure (Committee) will meet on Wednesday, February 1, 2023, following the Committee’s Organizational Meeting, in 2167 of the Rayburn House Office Building to receive testimony at a hearing entitled “*The State of Transportation Infrastructure and Supply Chain Challenges*.” The hearing will provide an opportunity for Members of the Committee to discuss the current state of our Nation’s transportation infrastructure, the implementation of the Infrastructure Investment and Jobs Act (IIJA, P.L. 117–58), and receive updates on North American supply chain challenges. Members will receive testimony from representatives from the American Trucking Associations (ATA), the Association of American Railroads (AAR), Associated General Contractors of America (AGC), Port Houston, and the Transportation Trades Department, AFL–CIO (TTD).

II. BACKGROUND

*STATE OF TRANSPORTATION INFRASTRUCTURE*

Infrastructure is generally acknowledged as the physical facilities that support the transportation, energy, and communications sectors.<sup>1</sup> Transportation infrastructure is the underlying system of public works designed to facilitate movement.<sup>2</sup> Based on current mobility patterns and transportation modes in the United States, this infrastructure includes roads, railways, airways, transit systems, waterways, canals, pipelines, bike lanes, and sidewalks, as well as terminals, such as airports, ports, railway stations, bus stations, warehouses, and trucking terminals.<sup>3</sup> These systems are essential to the movement of people and goods nationwide and globally, and play an integral role in the United States’ economic competitiveness and Americans’ quality of life.

<sup>1</sup> U.S. DEP’T OF HOMELAND SEC., FEMA, *Infrastructure*, available at <https://www.fema.gov/glossary/infrastructure>.

<sup>2</sup> NATIONAL GEOGRAPHIC RESOURCE LIBRARY, *Transportation Infrastructure*, available at <https://education.nationalgeographic.org/resource/transportation-infrastructure>.

<sup>3</sup> See IGI GLOBAL, *What is Transportation Infrastructure?*, available at <https://www.igi-global.com/dictionary/infrastructure-and-growth/59134>; see also DOT, *Research By Mode of Transportation*, available at <https://www.transportation.gov/research-and-technology/research-mode-transportation>.

The United States transportation system, overseen by the United States Department of Transportation (DOT), includes 4.2 million miles of public roads, nearly 620,000 bridges as of 2020, 3.3 million miles of oil and natural gas pipelines, more than 250,000 miles of commercially navigable waterways, approximately 140,000 railroad route-miles, and more than 5,000 public-use airports.<sup>4</sup> The transportation system also includes more than 900 urban and 1,200 rural and Tribal public transit operators and more than 300 ports on the coasts, Great Lakes, and inland waterways.<sup>5</sup>

Although the state of infrastructure in the United States was once unparalleled, according to statistics from 2019, our country no longer has the best infrastructure in the world.<sup>6</sup> The World Economic Forum (WEF) ranked United States physical infrastructure as 13th in the world.<sup>7</sup> Additionally, a Council of Foreign Relations' report states that the United States' infrastructure is dangerously overstretched and lagging behind economic competitors, particularly China.<sup>8</sup>

Further, the American Society of Civil Engineers' (ASCE) *2021 Report Card for American Infrastructure* rated America's overall infrastructure as a C minus.<sup>9</sup> This report, issued prior to the enactment of IIJA, recommends the following: "To improve our quality of life and strengthen our international competitiveness, we need a strategic and holistic plan to renew, modernize, and invest in our infrastructure. This plan should make basic maintenance a centerpiece as we improve our legacy systems."<sup>10</sup> The report also encourages streamlining permitting processes across infrastructure sectors.<sup>11</sup>

Ensuring the United States' transportation infrastructure systems are equipped to handle future demand from freight and the traveling public is also a challenge. In 2021, DOT projected that from 2020 to 2050, freight activity would increase by 50 percent in tonnage and double in value.<sup>12</sup> This is significant, as the \$20 trillion United States economy relies on the vast network of infrastructure, and poor infrastructure can impose large costs on the economy and negatively affect economic competitiveness.<sup>13</sup> Additionally, the need to update and improve America's aging infrastructure is paramount for mobility and safety.<sup>14</sup> The Biden Administration's DOT's Strategic Plan for Fiscal Year (FY) 2022 to FY2026 identifies the following strategic goals: safety; economic strength and global competitiveness; equity; climate and sustainability; transformation; and organizational excellence.<sup>15</sup>

### III. THE INFRASTRUCTURE INVESTMENT AND JOBS ACT

On November 15, 2021, the President signed IIJA into law, representing the largest Federal investment in decades in the United States' infrastructure.<sup>16</sup> This legislation provided \$1.2 trillion for infrastructure programs over five years, from FY 2022 to FY 2026, of which \$660 billion will be administered by DOT.<sup>17</sup> IIJA included

<sup>4</sup>See OST, TRANSPORTATION STATISTICS ANNUAL REPORT (2022) available at <https://rosap.ntl.bts.gov/view/dot/65841>; see also DOT, *DOT Overview*, available at <https://www.transportation.gov/transition/dot-overview>.

<sup>5</sup>*Id.*

<sup>6</sup>*Declining Global Ranking for U.S. Infrastructure + Looming Highway Trust Fund Insolvency = Need for New Investment*, AM. FOR TRANSP. MOBILITY (Feb. 3, 2020), available at <https://www.fasterbettafer.org/2020/02/declining-global-ranking-for-u-s-infrastructure-looming-highway-trust-fund-insolvency-urgent-need-for-new-investment/>.

<sup>7</sup>Klaus Schwab, THE WORLD ECONOMIC FORUM, THE GLOBAL COMPETITIVENESS REP. (2019), available at [https://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf).

<sup>8</sup>James McBride & Anshu Siripurapu, *The State of U.S. Infrastructure*, COUNCIL ON FOREIGN RELATIONS (Nov. 8, 2021), available at <https://www.cfr.org/backgrounder/state-us-infrastructure> [hereinafter *State of U.S. Infrastructure*].

<sup>9</sup>AM. SOC. OF CIVIL ENGINEERS, A COMPREHENSIVE ASSESSMENT OF AMERICA'S INFRASTRUCTURE: 2021 REP. CARD FOR AMERICA'S INFRASTRUCTURE available at [https://infrastructurereportcard.org/wp-content/uploads/2020/12/National\\_IRC\\_2021-report.pdf](https://infrastructurereportcard.org/wp-content/uploads/2020/12/National_IRC_2021-report.pdf).

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*

<sup>12</sup>Press Release, BUREAU OF TRANSP. STATISTICS, *Freight Activity in the U.S. Expected to Grow Fifty Percent by 2050* (Nov. 22, 2021), available at <https://www.bts.gov/newsroom/freight-activity-us-expected-grow-fifty-percent-2050>.

<sup>13</sup>*State of U.S. Infrastructure*, *supra* note 8.

<sup>14</sup>*Declining Global Ranking for U.S. Infrastructure + Looming Highway Trust Fund Insolvency = Need for New Investment*, AMERICANS FOR TRANSP. MOBILITY (Feb. 3, 2020), available at <https://www.fasterbettafer.org/2020/02/declining-global-ranking-for-u-s-infrastructure-looming-highway-trust-fund-insolvency-urgent-need-for-new-investment/>.

<sup>15</sup>DOT, STRATEGIC PLAN FY 2022–2026 available at [https://www.transportation.gov/sites/dot.gov/files/2022-04/US\\_DOT\\_FY2022-26\\_Strategic\\_Plan.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-04/US_DOT_FY2022-26_Strategic_Plan.pdf).

<sup>16</sup>IIJA, Pub. L. 117–58, (2021).

<sup>17</sup>FHWA., *Bipartisan Infrastructure Law*, available at <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>.

provisions to sustain and modernize the Nation’s infrastructure, including roads, bridges, transit, railroads, and airports, as well as energy and broadband. Specifically, the law provides:

- \$365 billion for highway programs administered by the Federal Highway Administration (FHWA);<sup>18</sup>
- \$108 billion for transit programs administered by the Federal Transit Administration (FTA);<sup>19</sup>
- \$102 billion for rail programs administered by the Federal Railroad Administration (FRA);<sup>20</sup>
- \$43 billion for multimodal project, safety, and innovation grant programs administered by the Office of the Secretary of Transportation (OST);<sup>21</sup>
- \$25 billion for aviation programs administered by Federal Aviation Administration (FAA);<sup>22</sup>
- \$8 billion for safety programs administered by National Highway Traffic Safety Administration (NHTSA);<sup>23</sup>
- \$5 billion for motor carrier safety programs administered by Federal Motor Carrier Safety Administration (FMCSA);<sup>24</sup>
- \$2.3 billion for port and waterway programs administered by the Maritime Administration (MARAD);<sup>25</sup> and
- \$1 billion for modernization of natural gas distribution pipelines administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA).<sup>26</sup>

While IIJA provided historic levels of funding to address America’s infrastructure needs, stakeholders have raised concerns that persistently high inflation is undermining those funding increases.<sup>27</sup> The majority of funding in IIJA (under FHWA, FTA, and OST) allows recipients up to four years to obligate funding. If high inflation levels continue to hold, IIJA’s funding increases in the outyears also would “erode.”<sup>28</sup> However, if the higher inflation levels experienced since early 2021 drop, IIJA’s buying power may not be affected in the outyears.

Inflation began rising in January 2021, reaching a 41-year record high of 9.1 percent in June 2022.<sup>29</sup> As of December 2022, the 12-month inflation rate stood at 6.5 percent, and slowed for the sixth month in a row.<sup>30</sup> However, this marks the 22nd consecutive month that the rate remains far above the two percent the Federal Re-

<sup>18</sup> See *id.* (providing further information on highway programs).

<sup>19</sup> See FTA, *Bipartisan Infrastructure Law*, available at <https://www.transit.dot.gov/BIL> (providing further information on transit programs).

<sup>20</sup> See FRA, *Bipartisan Infrastructure Law Information From FRA*, available at <https://railroads.dot.gov/BIL> (providing further information on rail programs).

<sup>21</sup> *Bipartisan Infrastructure Law Dashboard*, DOT, <https://www.transportation.gov/mission/budget/bipartisan-infrastructure-law-dashboard> (last updated Dec. 28, 2021).

<sup>22</sup> See FAA, *What the Bipartisan Infrastructure Law Means for U.S. Aviation*, available at <https://www.faa.gov/bil> (providing further information on aviation programs).

<sup>23</sup> See NHTSA, *Bipartisan Infrastructure Law*, available at <https://www.nhtsa.gov/bipartisan-infrastructure-law> (providing further information on NHTSA programs).

<sup>24</sup> *Bipartisan Infrastructure Law: Impacts for FMCSA Grant Programs*, DOT, <https://www.fmcsa.dot.gov/Bipartisan-Infrastructure-Law-Grants> (last updated Jan. 6, 2022).

<sup>25</sup> See MARAD, *Bipartisan Infrastructure Law: Maritime Admin.*, available at <https://www.maritime.dot.gov/about-us/bipartisan-infrastructure-law-maritime-administration> (providing further information on MARAD grant programs).

<sup>26</sup> See Press Release, PHMSA, *USDOT Begins Accepting Applications for President Biden’s Bipartisan Infrastructure Law Program Designed to Improve Pipeline Safety, Reduce Gas Distribution Leak in Communities Across the Country*, (May 24, 2022), available at <https://www.phmsa.dot.gov/news/usdot-begins-accepting-applications-president-bidens-bipartisan-infrastructure-law-program> (providing further information on pipeline grants).

<sup>27</sup> Jenni Bergal, *Inflation is Cutting Into States’ Big Infrastructure Windfall*, THE PEW CHARITABLE TRUSTS, (Nov. 30, 2022), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/11/30/inflation-is-cutting-into-states-big-infrastructure-windfall>; David A. Lieb & Michael Casey, *Inflation Taking a Bite Out of New Infrastructure Projects*, ASSOCIATED PRESS, (June 19, 2022), available at <https://apnews.com/article/inflation-us-infrastructure-projects-e89dcd5f3e623e532353f087265f9a63>.

<sup>28</sup> Jeff Davis, *How Much Could Inflation Erode IIJA Buying Power?*, ENO CTR. FOR TRANSP. (Apr. 27, 2022), available at <https://www.enotrans.org/article/how-much-could-inflation-erode-ijja-buying-power/>.

<sup>29</sup> Press Release, U.S. BUREAU OF LABOR STATISTICS, *Consumer Prices Up 9.1 Percent Over the Year ended June 2022, Largest Increase in 40 Years* (July 18, 2022), available at <https://www.bls.gov/opub/ted/2022/consumer-prices-up-9-1-percent-over-the-year-ended-june-2022-largest-increase-in-40-years.htm>.

<sup>30</sup> Press Release, U.S. BUREAU OF LABOR STATISTICS, *Consumer Price Index—Dec. 2022*, (January 12, 2023), available at <https://www.bls.gov/news.release/cpi.htm>.

serve targets for a stable economy.<sup>31</sup> Additionally, producer prices representing prices paid by businesses producing goods, increased 6.2 percent year-over-year.<sup>32</sup>

In early 2022, the Eno Center for Transportation warned that if inflation for highway costs averaged higher than seven percent through 2027, the increased funding provided for highways under IIJA could be eliminated entirely.<sup>33</sup> In June 2022, the American Association of State Highway and Transportation Officials (AASHTO) also raised concerns about the ability of states to capitalize on IIJA funding due to inflation, saying “[t]he cost of those projects is going up by 20%, by 30%, and just wiping out that increase from the federal government that they were so excited about earlier in the year.”<sup>34</sup> Prices for construction materials remain particularly steep. In December 2022, the AGC cautioned that although inflation may be moderating in some areas, construction costs were still rising and squeezing businesses, citing an 11.2 percent increase in non-residential construction prices year-over-year.<sup>35</sup>

Fuel costs began increasing in 2021, and over the past year, gasoline and diesel prices surpassed record highs.<sup>36</sup> The rate at which these prices increased were also record-breaking.<sup>37</sup> These historically high prices contribute to increased business costs at multiple points in supply chains. After reaching a record high of \$5.81 per gallon last summer, the National average price for a gallon of diesel fuel was \$4.60 per gallon as of January 23, 2023, an increase of \$1.89 per gallon or about 70 percent, from January 2021.<sup>38</sup> The average price for a gallon of regular gasoline reached an all-time national high of \$5.00 in June 2022, but as of January has fallen to \$3.41 per gallon.<sup>39</sup>

#### IV. SUPPLY CHAIN CHALLENGES AND ADMINISTRATIVE ACTIONS

##### THE SUPPLY CHAIN

The supply chain is defined as a network of the entire process of making and selling commercial goods, from the supply of materials, manufacture of the goods, through their transportation, distribution, and sale.<sup>40</sup> Moving goods is critical to the success of this endeavor.<sup>41</sup> A well-managed supply chain results in the efficient use of resources, reduced costs, a faster production cycle, and satisfied consumers.<sup>42</sup>

The rapid spread of COVID-19 exposed fragilities in transportation networks, with a 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.<sup>43</sup> Weak-

<sup>31</sup> U.S. BUREAU OF LABOR STATISTICS, *12-Month Percentage Change, Consumer Price Index, selected categories*, available at <https://www.bls.gov/charts/consumer-price-index/consumer-price-index-by-category-line-chart.htm>; BOARD OF GOVERNORS OF THE FED. RESERVE SYSTEM, *CURRENT FAQ'S, What is an Acceptable Level of Inflation?*, <https://www.federalreserve.gov/faqs/5D58E72F066A4DBDA80BBA659C55F774.htm> (Last updated July 25, 2011).

<sup>32</sup> Press Release, U.S. BUREAU OF LABOR STATISTICS, *Producer Price Indexes—December 2022* (January 18, 2023), available at <https://www.bls.gov/news.release/ppi.nr0.htm>.

<sup>33</sup> Jeff Davis, *How Much Could Inflation Erode IIJA Buying Power?*, ENO CTR. FOR TRANSP. (Apr. 27, 2022), available at <https://www.enotrans.org/article/how-much-could-inflation-erode-ijja-buying-power/>.

<sup>34</sup> David A. Lieb & Michael Casey, *Inflation Taking a Bite Out of New Infrastructure Projects*, ASSOCIATED PRESS, (June 19, 2022), available at <https://apnews.com/article/inflation-us-infrastructure-projects-e89dcd5f3e623e532353f087265f9a63>.

<sup>35</sup> *2022 Construction Inflation Alert*, ASSOCIATED GEN. CONTRACTORS OF AM., available at [https://www.agc.org/sites/default/files/users/user21902/Construction%20Inflation%20Alert%20Dec%202022\\_V4.pdf](https://www.agc.org/sites/default/files/users/user21902/Construction%20Inflation%20Alert%20Dec%202022_V4.pdf).

<sup>36</sup> See U.S. ENERGY INFORMATION ADMIN., *Petroleum & Other Liquids, Weekly U.S. No 2 Diesel Retail Prices*, available at [https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD\\_EPD2D\\_PTE\\_NUS\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_NUS_DPG&f=W).

<sup>37</sup> Data Spotlight, BUREAU OF TRANSP. STATISTICS, *Record Breaking Increases in Motor Fuel Prices in 2022*, (Aug. 18, 2022), available at <https://www.bts.gov/data-spotlight/record-breaking-increases-motor-fuel-prices-2022>.

<sup>38</sup> See U.S. ENERGY INFORMATION ADMIN., *Petroleum & Other Liquids, Weekly U.S. No 2 Diesel Retail Prices*, available at [https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD\\_EPD2D\\_PTE\\_NUS\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_NUS_DPG&f=W).

<sup>39</sup> *Id.*

<sup>40</sup> Jason Fenando, *Supply Chain Management (SCM): How It Works and Why It Is Important*, INVESTOPEDIA, (July 7, 2022), available at <https://www.investopedia.com/terms/s/scm.asp>.

<sup>41</sup> *The Transportation Supply Chain*, SUPPLY CHAIN DRIVE, (Jan. 17, 2021) available at <https://www.supplychaindrive.com/spons/the-transportation-supply-chain/433934/>.

<sup>42</sup> Jack Grimshaw, *What is Supply Chain? A Definitive Guide*, SUPPLY CHAIN DIGITAL, (May 17, 2020), available at <https://supplychaindigital.com/supply-chain-2/what-supply-chain-definitive-guide>.

<sup>43</sup> Peter S. Goodman, *How the Supply Chain Broke, and Why it Won't Be Fixed Anytime Soon*, N.Y. TIMES (Oct. 21, 2021), available at <https://www.nytimes.com/2021/10/22/business/shortages-supply-chain.html> [hereinafter *How the Supply Chain Broke*].

nesses in the global supply chain were exacerbated by supply and demand imbalances, restrictions and regulations, and workforce and infrastructure challenges.<sup>44</sup>

In response to the COVID-19 pandemic, factories in Asia closed, and shipping companies cut schedules anticipating reduced demand for consumer goods.<sup>45</sup> However, the rapid growth of e-commerce during the pandemic led to a surge in consumer demand that inundated the system, particularly for freight, shipped from Asia into West Coast ports and transported through the rest of the country via truck and rail.<sup>46</sup> The lack of available space onboard vessels, trains, and trucks; in distribution warehouses; and at ports, impacted industries, frustrated consumers across the country and increased prices for some goods and commodities.<sup>47</sup>

For example, the Ports of Los Angeles and Long Beach (San Pedro Bay ports), the Nation's two largest container ports by TEU (Twenty Foot Equivalent units) for calendar year 2022, experienced significant cargo volume increases.<sup>48</sup> The inability to process incoming shipping containers resulted in cargo logjams off-shore and within the port complex.<sup>49</sup> First reported as a five-vessel backlog, on October 15, 2020, the number of vessels waiting to berth at the San Pedro Bay ports steadily increased during the pandemic, consistently resetting records before peaking at 109 vessels in January 2022.<sup>50</sup> The backlog at the Nation's two largest container ports ended in November 2022, in part due to a new queuing system, reduced TEU volumes, and increased investments in other ports, as shippers and cargo carriers demanded more diversity within the transportation supply network.<sup>51</sup>

#### *BIDEN ADMINISTRATION ACTIONS TO ADDRESS THE SUPPLY CHAIN CRISIS*

The Executive branch took various actions to relieve pressure on the supply chain, including issuing Executive Order (EO) 14017, "America's Supply Chain."<sup>52</sup> Signed on February 21, 2021, the EO directed Federal agencies to conduct a 100-day review of and report on the supply chain vulnerabilities associated with key imports.<sup>53</sup> A broader one-year review was also required.<sup>54</sup> The order prioritized reviews by the Departments of Commerce, Energy, Defense, and Health and Human Services, which were subsequently released on June 8, 2021.<sup>55</sup> DOT's report, *Supply Chain Assessment of the Transportation Industrial Base: Freight and Logistics*, was released on February 24, 2022.<sup>56</sup> On the same day, the Administration announced ad-

<sup>44</sup>Chuin-Wei Yap, William Boston, & Alistair MacDonald, *Global Supply-Chain Problems Escalate, Threatening Economic Recovery*, WALL ST. J., (Oct. 8, 2021), available at <https://www.wsj.com/articles/supply-chain-issues-car-chip-shortage-covid-manufacturing-global-economy-11633713877>.

<sup>45</sup>See Simina Mistreanu, *China's Factories Are Reeling from Forced Coronavirus Closures*, FORBES (Feb. 23, 2020), available at <https://www.forbes.com/sites/siminamistreanu/2020/02/23/chinas-factories-are-reeling-from-forced-coronavirus-closures/?sh=21d514eb73f2>; see also COVID-19 Cuts Global Maritime Trade, *Transforms Industry*, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, (Nov. 12, 2020), available at <https://unctad.org/news/covid-19-cuts-global-maritime-trade-transforms-industry>.

<sup>46</sup>Jessica Young, *US E-Commerce Grows 32.4% in 2020*, DIGITAL COMMERCE 360 (Feb. 18, 2022), available at <https://www.digitalcommerce360.com/article/us-ecommerce-sales/>.

<sup>47</sup>*How the Supply Chain Broke* supra note 43.

<sup>48</sup>DOT, BUREAU OF TRANSP. STATISTICS, 2023 PORT PERFORMANCE FREIGHT STATISTICS PROGRAM: ANNUAL REP. TO CONGRESS (Jan. 2023) available at <https://rosap.ntl.bts.gov/view/dot/65990>.

<sup>49</sup>*Id.*

<sup>50</sup>Paul Berger, *Southern California's Notorious Container Ship Backup Ends: Slump in Imports, Cargo Diversions to Other Ports Help Shrink Quote of Dozen of Vessels*, WALL ST. J. (Oct. 21, 2022) available at <https://www.wsj.com/articles/southern-californias-notorious-container-ship-backup-ends-11666344603>.

<sup>51</sup>See Alejandra Salgado, *The 'Ship Backup Has Ended' at Los Angeles, Long Beach Ports: Lower Demand as a Result of Cargo Shifting to the East Coast has Helped Clear the 25-month Backlog*, SUPPLY CHAIN DRIVE, (Nov. 23, 2022), available at <https://www.supplychaindrive.com/news/the-ship-backup-has-ended-in-los-angeles-long-beach-ports/637250/>; see also Lori Ann LaRocco, *East Coast Ports Including New York are Winning a Domestic Trade War at the Expense of California*, CNBC (Dec. 15, 2022) available at <https://www.cnbc.com/2022/12/15/east-coast-ports-like-new-york-are-winning-trade-war-over-california.html>.

<sup>52</sup>Exec. Order No. 14,017, 86 Fed. Reg. 11,849 (Feb. 24, 2021), available at <https://www.govinfo.gov/content/pkg/FR-2021-03-01/pdf/2021-04280.pdf>.

<sup>53</sup>*Id.*

<sup>54</sup>*Id.*

<sup>55</sup>THE WHITE HOUSE, BUILDING RESILIENT SUPPLY CHAINS, REVITALIZING AMERICAN MANUFACTURING, AND FOSTERING BROAD-BASED GROWTH (June 2021) available at <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

<sup>56</sup>DOT, SUPPLY CHAIN ASSESSMENT OF THE TRANSPORTATION INDUSTRIAL BASE: FREIGHT AND LOGISTICS (Feb. 2022), available at <https://www.transportation.gov/sites/dot.gov/files/>

ditional plans to build long-term resilience in supply chains based on findings from the reports ordered by E.O. 14017.<sup>57</sup>

Additionally, on June 8, 2021, the White House announced the establishment of a Supply Chain Disruption Task Force (Task Force), led by the Secretaries of Commerce, Transportation, and Agriculture. The Task Force is directed to focus on a whole-of-government response to address short-term supply chain bottlenecks, with an emphasis on “homebuilding and construction, semiconductors, transportation, and agriculture and food.”<sup>58</sup> Coordinated by the National Economic Council, the Task Force produced a series of blog posts highlighting the congestion at ports, in addition to coordinating inter-agency and stakeholder meetings.<sup>59</sup> This data collection function was transferred to the DOT in March of 2022.<sup>60</sup> The Administration also announced the Freight Logistics Optimization Works (FLOW) initiative on March 15, 2022, which includes a pilot effort to “develop a proof-of-concept information exchange and operationalize it to support industry decision-making.”<sup>61</sup> Participants include private companies, warehousing and logistics firms, ports, and others.<sup>62</sup> Finally, the Task Force led calls to implement a container dwell fee at the San Pedro Bay ports, as an incentive to clear long-dwelling cargo off of terminals. This fee was never implemented, and the authority to collect phased out on January 24, 2023.<sup>63</sup>

#### V. WITNESSES

- Mr. Chris Spear, President and Chief Executive Officer, ATA
- Mr. Ian Jefferies, President and Chief Executive Officer, AAR
- Mr. Jeff Firth, Vice President, Hamilton Construction, on behalf of AGC
- Mr. Roger Guenther, Executive Director, Port Houston
- Mr. Greg Regan, President, Transportation Trades Department, AFL–CIO (TTD)

2022-03/EO%2014017%20-%20DOT%20Sectoral%20Supply%20Chain%20Assessment%20-%20Freight%20and%20Logistics\_FINAL\_508.pdf.

<sup>57</sup> Press Release, THE WHITE HOUSE, *The Biden-Harris Plan to Revitalize American Manufacturing and Secure Critical Supply Chains in 2022* (February 24, 2022) available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/24/the-biden-harris-plan-to-revitalize-american-manufacturing-and-secure-critical-supply-chains-in-2022/>.

<sup>58</sup> Press Release, THE WHITE HOUSE, *FACT SHEET: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities* (June 8, 2021), available at <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/>.

<sup>59</sup> *Recent Progress at Our Ports: Robust Inventories and New Moves Toward Greater Velocity*, THE WHITE HOUSE (Nov. 29, 2021), available at <https://www.whitehouse.gov/nec/briefing-room/2021/11/29/recent-progress-at-our-ports-robust-inventories-and-new-moves-toward-greater-velocity/>.

<sup>60</sup> Press Release, DOT, *Transportation Supply Chain Indicators* (Mar. 1, 2022), available at <https://www.transportation.gov/briefing-room/transportation-supply-chain-indicators>.

<sup>61</sup> *Agency Information Collection Activities; New Information Collection: Freight Logistics Optimization Works (FLOW) Initiative*, 87 Fed. Reg. 42,796 (July 18, 2022), available at <https://www.govinfo.gov/content/pkg/FR-2022-07-18/pdf/2022-15247.pdf>.

<sup>62</sup> *Id.*  
<sup>63</sup> *Ports of LA, Long Beach to End Container Dwell Fee*, SAFETY4SEA (Dec. 20, 2022), available at <https://safety4sea.com/la-long-beach-end-container-dwell-fee/>.

# **THE STATE OF TRANSPORTATION INFRA- STRUCTURE AND SUPPLY CHAIN CHAL- LENGES**

**WEDNESDAY, FEBRUARY 1, 2023**

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

The committee met, pursuant to call, at 10:05 a.m., in room 2167 Rayburn House Office Building, Hon. Sam Graves (Chairman of the committee) presiding.

Mr. GRAVES OF MISSOURI. The committee will come to order.

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

Without objection, that is so ordered.

I now recognize myself for the purpose of an opening statement.

## **OPENING STATEMENT OF HON. SAM GRAVES OF MISSOURI, CHAIRMAN, COMMITTEE ON TRANSPORTATION AND INFRA- STRUCTURE**

Mr. GRAVES OF MISSOURI. I do point out that in my opening before that I said that we will have four-person panels. I see we have a five-person panel. My staff has just taken note of that. That will be corrected, but I do appreciate all of our witnesses being here.

Robust and respectful discussions are very much a part of this process, which brings us to today's hearing, which is entitled "The State of Transportation Infrastructure and Supply Chain Challenges," which kicks off our activity for the 118th Congress.

America has a vast transportation network that is essential to the Nation's economic competitiveness, the movement of people and goods, both nationwide and globally, and is integral to obviously Americans' quality of life.

Vulnerabilities within our transportation network were laid bare during the COVID-19 pandemic and were only made worse by stifling our regulation.

The Infrastructure Investment and Jobs Act, IIJA, signed into law on November 15, 2021, provided \$1.2 trillion, roughly half of which went towards programs that are under this committee's jurisdiction. I did not support the IIJA; however, I do accept that it is now the law of the land.

What we have to do is make sure that Congress, and in particular, this committee, ensures that the money from the IIJA is spent responsibly and is directed towards making our Nation's transportation supply chain more efficient and more resilient. We owe it to the American people to do just that.

So, with that, I recognize Ranking Member Larsen for his opening statement.

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

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**Prepared Statement of Hon. Sam Graves of Missouri, Chairman, Committee on Transportation and Infrastructure**

America has a vast transportation network that is essential to the nation's economic competitiveness, the movement of people and goods both nationwide and globally, and is integral to Americans' quality of life.

Vulnerabilities within our transportation network were laid bare during the COVID-19 pandemic and were only made worse by stifling regulations.

The Infrastructure Investment and Jobs Act (IIJA), signed into law on November 15, 2021, provided \$1.2 trillion, roughly half of which went toward programs under this Committee's jurisdiction.

Although I did not support IIJA, I accept that it is the law of the land. What we have to do is make sure Congress and this Committee ensure the money from IIJA is spent responsibly and is directed toward making our Nation's transportation supply chain more efficient and resilient. We owe it to the American people to do just that.

**OPENING STATEMENT OF HON. RICK LARSEN OF WASHINGTON, RANKING MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

Mr. LARSEN OF WASHINGTON. I ask consent to have the rest of your time as well on the opening statement.

[Laughter.]

Mr. Chair, thank you so much for holding this hearing. I appreciate it. As committee Democrats organized this week, we set priorities for this Congress to promote investments in a cleaner, greener, safer, and more accessible transportation network; to ensure these investments create jobs and opportunities; to build capacity in our communities as they put Federal dollars to work; to restore and protect our environment; and to safeguard our Nation's economic sustainability and competitiveness. I know Members on both sides of the aisle share many of these goals, and we do stand ready to work together in good faith where we can find common ground.

We have come a long way in 2 years. At the start of the 117th Congress, we faced an unprecedented economic challenge as COVID-19 placed incredible stress on American workers and families as well as massive pressure on supply chains. These pressures exposed the fragilities of an aging, congested, and overburdened transportation and infrastructure network that was dangerously overdue for an overhaul.

Last Congress, we finally responded decisively to bolster our economy and limit the fallout from the immediate crisis facing our Nation, while modernizing and transforming the way people and goods move, with the passage of several landmark bills: the American Rescue Plan, the Inflation Reduction Act, the CHIPS and Science Act, and the Bipartisan Infrastructure Law, or BIL. This committee had the largest role in delivering the BIL and will continue to focus on the implementation of the \$660 billion where we have oversight.

This dollar amount and the number of grant opportunities is significantly larger than any previous transportation or infrastructure

authorization that the DOT has administered. And the pace at which these dollars are reaching communities is impressive.

DOT has already made available over \$150 billion in highway, transit, and airport formula money over fiscal years 2022 and 2023. And these are not federally controlled dollars. This funding passes through the U.S. DOT directly to States and local governments to build projects—projects designed and built by private sector construction and engineering firms and workers they hire in everyone's districts. That is why you will hear me say frequently that transportation means jobs.

States have launched 29,000 new projects with Federal highway formula funding in fiscal year 2022, according to an analysis from the American Road and Transportation Builders Association. That is at least one new project underway in every congressional district in the country. The BIL also provides funding for competitive grant programs, and, to date, the administration has announced funding for 6,900 projects under competitive grants to over 4,000 communities nationwide for roads, bridges, rail, buses, ferries, ports, safety projects, and other infrastructure needs.

BIL grants provide strong support for projects in geographically diverse areas. Under the RAISE grant program, funds are awarded evenly between rural and urban areas. In the latest round of INFRA grants totaling \$1.5 billion, 15 of 26 projects selected were in rural areas. The Rural Surface Transportation Grant Program awarded \$274 million to 12 projects in its first funding round as well. And it supports major projects that are larger than any one State or community could advance, such as the recently announced grants for the Hudson tunnels in New York and the Brent Spence Bridge connecting Ohio and Kentucky.

BIL also includes grants exclusively for Tribes and local communities, such as the Tribal Transportation Program Safety Funds and Safe Streets and Roads for All, to ensure these communities reap the benefits of transportation investments.

So, we have 4 more years of this bill to implement for States and local communities and Tribes, and oversight to continue. We need to ensure that the investments represent a benefit for our local priorities, put people to work in our districts, and maintain and modernize our infrastructure.

However, this won't happen if we play chicken with the U.S. ability to invest, especially invest in our competitiveness, and threaten the U.S. economy with a catastrophic default on our debt. That would set back infrastructure projects immeasurably. So, we need to ensure that we find a way to come up with a debt ceiling deal so that infrastructure investments and the money that comes with it are not cut or eliminated over time. And I hope we can focus some of our work on defining what would happen if there is a default and what would happen to transportation investments.

I look forward to working with you. We are going to hear today about how inflation is undercutting the purchasing power of Federal transportation dollars. We will hear today as well about how the BIL has invested in U.S. competitiveness in our transportation infrastructure.

And finally, with the time I have left, I want to emphasize human infrastructure, the need to develop today's necessary work-

force and to build a pipeline for new workers in the next generation of infrastructure investment.

I want to thank our witnesses today.

With that, I yield back.

[Mr. Larsen of Washington's prepared statement follows:]

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**Prepared Statement of Hon. Rick Larsen of Washington, Ranking Member,  
Committee on Transportation and Infrastructure**

Thank you, Chairman Graves, for holding this hearing. I look forward to partnering with you in support of our nation's transportation and infrastructure—a bipartisan tradition of this Committee.

As Committee Democrats organized this week, we set priorities for this Congress:

1. Promote investments in a cleaner, greener, safer, and more accessible transportation network;
2. Ensure these investments create jobs and opportunities for all people;
3. Build capacity in our communities as they put federal dollars to work;
4. Restore and protect our environment; and
5. Safeguard our nation's economic sustainability and competitiveness.

I know Members on the other side of the aisle share many of these goals. We stand ready to work together in good faith where we can find common ground.

We have come a long way in two years. At the start of the 117th Congress, America faced unprecedented economic challenges as the COVID-19 pandemic placed incredible stress on American workers and families as well as massive pressure on supply chains.

These pressures exposed the fragilities of an aging, congested, and overburdened transportation and infrastructure network that was dangerously overdue for an overhaul—cries for which echoed in the halls of Congress for nearly a decade of Infrastructure Week after Infrastructure Week.

Last Congress, we finally responded decisively to bolster our economy and limit the fallout from the immediate crisis facing our nation, while modernizing and transforming the way people and goods move, with the passage of several landmark bills: the American Rescue Plan, and the Inflation Reduction Act, the CHIPS and Science Act, and the Bipartisan Infrastructure Law (BIL).

Of these, this Committee had the largest role in delivering the BIL and will continue to focus on implementation of the \$660 billion under U.S. Department of Transportation (DOT) that we oversee.

This dollar amount, and the number of grant opportunities, is significantly larger than any previous transportation or infrastructure authorization administered by DOT. And the pace at which these dollars are reaching communities is truly impressive.

DOT has already made available over \$150 billion in highway, transit, and airport formula funds for Fiscal Years 2022 and 2023.

These are not federally controlled programs. This funding passes through U.S. DOT directly to states and local governments to build projects—projects designed and built by private sector construction and engineering firms and workers they hire in our districts. That is why you will hear me say frequently: transportation means jobs.

States have launched 29,000 new projects with federal highway formula funding in FY 2022, according to analysis by ARTBA (American Road & Transportation Builders Association). There is at least one new project underway in every Congressional district in the country.

The BIL also provides funding for competitive grant programs. To date, the Administration has announced funding for 6,900 projects under competitive grants to over 4,000 communities nationwide for roads, bridges, rail, buses, ferries, ports, safety, and other infrastructure needs.

BIL grants provide strong support for projects in red and blue states, and in urban and rural areas. Under the RAISE grant program, funds are awarded evenly between rural and urban areas. In the latest round of INFRA grants totaling \$1.5 billion, 15 of 26 projects selected were in rural areas. The Rural Surface Transportation Grant Program awarded \$274 million to 12 projects in its first funding round.

BIL grants support major projects that are larger than any one state or community could advance, such as the recently announced grants for the Hudson tunnels in New York and the Brent Spence bridge connecting Ohio and Kentucky.

BIL also includes grants exclusively for Tribes and local communities, such as Tribal Transportation Program Safety Funds and Safe Streets and Roads for All, to ensure that these communities reap the benefits of transportation investments.

This is just the start. BIL will deliver benefits for communities across the country and create good jobs for years to come, with guaranteed funding through 2026. That's four years for the states, local communities, and Tribes we represent to benefit from forward-looking investments in local priorities, put people to work in each of our districts, and maintain and modernize our infrastructure.

That won't happen if we play chicken with our competitiveness and threaten the economy with a catastrophic default on our debt. That would set back infrastructure projects immeasurably.

It won't happen if we play politics with this money. I caution my colleagues to think hard before seeking to repeal or rewrite the rules for BIL programs. Eliminating programs has an obvious effect. However, even smaller changes to program considerations or eligibilities will block the quick pass-through of these funds to our communities if DOT has to go back to the drawing board.

Our transportation system's shortcomings and our planet's challenges can't be ignored or wished away. Taking measured action—in line with statutory authority—to evolve how we move people and goods is responsible and appropriate, and that is what this Administration is doing with BIL funding.

Without the investments made by the major laws enacted last Congress, our economy would be in far worse shape today. This committee held a hearing on industry and labor perspectives on the supply chain crisis in November 2021—where witnesses, many of whom are here again today, hailed the passage of the BIL and its positive impacts to improve our freight network supply chain.

We will hear today how inflation is undercutting the purchasing power of federal transportation dollars. To the critics who want to brush off the impacts of the BIL, know this—funding provided by this law was the largest increase in investment in over 50 years to roads, bridges, transit, and safety projects. It provides the largest investment in passenger rail service since the Amtrak was established.

As pointed out in ARTBA's recent testimony before the Senate, even with inflation taken into account, there has been market growth over the last year in the construction sector; whereas without the BIL, "we would likely be looking at a market contraction." Congress did its job to give the transportation construction sector the long-term resources to ride out tough economic times.

Physical assets and facilities are a huge part of rebuilding America's infrastructure, but they are only one part of the equation. Investing in human infrastructure is equally important to the long-term success and sustainability of our transportation systems and the supply chain network.

That's why you'll see a clear focus among committee Democrats as we oversee implementation of BIL and other laws, and work on new legislative initiatives to protect good wages and benefits, ensure safe working conditions, create opportunities for underrepresented groups, and support strong training and workforce development.

Thank you to each of our witnesses for joining us today. I look forward to your testimony.

Mr. GRAVES OF MISSOURI. Thank you.

Now I would like to welcome all of our witnesses here today, and thank you for coming in and for your testimony.

Just to explain the light system real quick. Green means go, yellow means you are running out of time, and red means you are out of time.

I would ask unanimous consent that the witnesses' full statements be included in the record.

And, without objection, that is so ordered.

As your written testimony has been made part of the record, the committee asks that you try to limit your remarks to 5 minutes.

And, with that, we have Mr. Chris Spear, who is the president and chief executive officer of the American Trucking Associations. Thanks for being here.

**TESTIMONY OF CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS; IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS; JEFF FIRTH, VICE PRESIDENT, HAMILTON CONSTRUCTION COMPANY, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA; ROGER GUENTHER, EXECUTIVE DIRECTOR, PORT HOUSTON; AND GREG REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL-CIO**

**TESTIMONY OF CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS**

Mr. SPEAR. Chairman Graves, Ranking Member Larsen, and members of this committee, thank you for the opportunity to testify this morning.

For 90 years, the ATA has helped Congress shape its understanding of our Nation's infrastructure needs and supply chain challenges, and today's oversight is both welcome and timely. The IIJA provided a 38-percent increase in road and bridge funding, a historic investment not witnessed since the Eisenhower era. Prior to passage, ATA testified 25 times before the House and Senate, sharing how the decaying state of our Nation's infrastructure is hamstringing America's ability to compete with rising global powers, like China. In short, a first world economy cannot survive a developing world infrastructure.

While the ATA strongly supported the IIJA, it was not a perfect piece of legislation. No bill is. This hearing provides oversight of \$1.2 trillion of taxpayer-earned income. An industry that makes up just 4 percent of the vehicles on our Nation's highways, yet pays nearly half the tab into the Federal Highway Trust Fund, we ask that every dollar be spent wisely and in accordance with what Congress instructed.

To that end, ATA objects to the Federal Highway Administration's memorandum directing the IIJA moneys be spent on existing roads and bridges and not new construction. Not only does this directly conflict with congressional intent, it does nothing to address congestion, improve safety, and reduce emissions. Our industry loses nearly \$75 billion a year sitting in congestion annually. That is 425,000 drivers sitting idle every year. That is 6.87 billion gallons of fuel, more than \$34 billion of wasted energy. That is 67.3 million metric tons of CO2 being pumped into our environment.

Let me be clear, funding existing infrastructure alone does nothing to fix congestion, it just makes it worse. Congress has proven that it can do the right thing: passage of the Ocean Shipping Reform Act, passage of the CHIPS Act. We need more of this. We need new, secure truck parking capacities proposed by the bipartisan Truck Parking Safety Improvement Act. We need a greater emphasis on our workforce.

The IIJA, including elements of the bipartisan DRIVE Safe Act, will do what none of the 49 States have done, requiring training and technology for young talent to operate our equipment. What the IIJA didn't do is require inward-facing cameras, opposed by drivers young and old, union and nonunion. Requiring a company camera be in a driver's workspace every minute of every hour, in-

cluding the sleeper berth, is intrusive, disrespectful, and opens a prying door into the other transportation modes. Your oversight is warranted.

Lastly, we need a realistic discussion about our Nation's energy and environmental policies. For four decades, ATA has worked with the EPA producing phases 1 and 2 emissions reduction rules. To date, 98.5 percent of all emissions have been removed from our tailpipes. In fact, 60 trucks today emit what 1 truck emitted in 1988. This is not a matter of if we get to zero, but when. And we will get there, just not on the timelines being proposed in California. Their rush to zero makes their timeline and targets unachievable, and they will fail. The rare minerals needed for millions of 5,000-pound truck batteries, the infrastructure needed to charge them, and the additional electricity needed to power our trucks full scale doesn't yet exist, and won't anytime soon.

Again, we are committed to a cleaner environment. We have proven that. We simply ask we be realistic about the path forward. Do that and we will have the best infrastructure and the strongest, most sustainable economy like no other.

I thank the committee and yield.

[Mr. Spear's prepared statement follows:]

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

INTRODUCTION

Chairman Graves, Ranking Member Larsen, and Members of the Committee, I appreciate the opportunity to testify before you today on behalf of the American Trucking Associations (ATA).<sup>1</sup>

ATA is a 90-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 as well as their corresponding suppliers. ATA represents every sector of the industry, from Less-than-Truckload to Truckload, agriculture and livestock transporters to auto haulers and movers, and large motor carriers to mom-and-pop one-truck operations. ATA member companies have overcome tremendous challenges over the past couple years and will continue to adjust as international and domestic supply chains recalibrate in the wake of the COVID-19 pandemic.

The pandemic and resulting supply chain crisis shined a glaring spotlight on the costs of inaction. Over the last few decades, federal leadership and investment in infrastructure have decreased significantly, and our nation's transportation networks have gradually fallen into a state of disrepair. Years of neglect have materialized as deteriorating roads and bridges, unreliable intermodal connectors, a shortage of truck parking capacity, severe congestion, insufficient space at and around ports, and paralyzing freight bottlenecks. These inefficiencies predate the pandemic but were exacerbated by the global supply chain disruptions, and industry is still navigating the long-term consequences. The inescapable conclusion is that decades of underinvestment in our nation's transportation networks have weakened our supply chains and global economic competitiveness.

If the United States is to remain the leading economy, it must have the best infrastructure and a resilient transportation network that can withstand supply chain pressures. ATA applauded enactment of the Infrastructure Investment and Jobs Act (IIJA) last Congress because the legislation provides significant resources to remedy years of neglect, improve the efficiency of our transportation networks, and enhance U.S. competitiveness in the global economy. Looking forward, we hope that Con-

<sup>1</sup> The 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.

gress will resolve its differences over existential threats to our economy—such as addressing the debt limit—so that we can continue implementing the necessary improvements to keep freight flowing through our supply chains.

To be clear, the degree to which investments in transportation infrastructure improve supply chain efficiency depends largely on how infrastructure investment strategies are defined and implemented. The IIJA has the potential to move the needle, but funding must be prioritized and allocated for projects that improve supply chain inefficiencies. 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, but trucking can only be as efficient as the roads and bridges upon which we operate.

Relatedly, the truck driver shortage and regulations impacting the movement of freight also limit supply chain efficiency. In 2021, the driver shortage reached a record high of roughly 81,000, and that number is only expected to grow over the next decade. Despite this significant and persistent labor constraint, some in Congress continue to contemplate the Protecting the Right to Organize (PRO) Act and other legislation that would decimate the independent contractor business model and ban most independent owner-operators from working in the trucking industry. If enacted, these legislative proposals would destroy the livelihoods of over 350,000 small business entrepreneurs and needlessly gut the nation's already fragile supply chain.

More than 80% of U.S. communities rely *exclusively* on trucking to meet their freight transportation needs, and trucking currently moves more than 70% of the nation's annual freight tonnage.<sup>2</sup> Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today, and trucks will continue to deliver the vast majority of goods to American communities.<sup>3</sup> Smart, forward-leaning investments in our nation's transportation infrastructure coupled with concerted efforts to bolster the trucking workforce will help the industry meet these increasing demands.

As the Committee examines the nation's transportation infrastructure needs and ongoing supply chain challenges, I ask that you please consider four key areas: 1) responsible implementation of the IIJA, 2) workforce development for supply chain resiliency, 3) implementation of ocean shipping reforms to ensure the efficient movement of goods, and 4) ambitious yet achievable energy and environmental policies. 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.

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 legislative solutions to protect the safe and efficient movement of our nation's goods.

#### IN PURSUIT OF THE BEST INFRASTRUCTURE

Well-maintained, reliable, and efficient infrastructure is crucial to the delivery of the nation's freight—both international and domestic—and vital to our country's economic and social well-being. That is why ATA applauded enactment of the historic Infrastructure Investment and Jobs Act (IIJA) in 2021. The IIJA represents the largest investment in our nation's infrastructure and competitiveness in nearly a century, and we remain optimistic that the bill will create the conditions necessary for long-term prosperity and growth.

#### *Barriers To Supply Chain Efficiency*

Enactment of the IIJA is all the more important when one digs deeper into the entrenched problems that plague our nation's highway infrastructure. Highway congestion, for example, adds nearly \$75 billion to the cost of freight transportation each year.<sup>4</sup> 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.<sup>5</sup> This caused the trucking industry to consume an additional 6.87 billion gallons of fuel in 2016, representing approximately 13% of the industry's total fuel consumption, and resulting in 67.3 million metric tons of excess carbon dioxide (CO<sub>2</sub>) emissions.<sup>6</sup>

<sup>2</sup>U.S. Census Bureau *Commodity Flow Survey*. U.S. Census Bureau, 2017.

<sup>3</sup>*Freight Transportation Forecast 2020 to 2031*. American Trucking Associations, 2020.

<sup>4</sup>*Cost of Congestion to the Trucking Industry: 2018 Update*. American Transportation Research Institute, Oct. 2018.

<sup>5</sup>*Ibid.*

<sup>6</sup>*Fixing the 12% Case Study: Atlanta, GA*. American Transportation Research Institute, Feb. 2019.

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. Specifically, ATA recommends that the U.S. Department of Transportation (USDOT) prioritize the discretionary program resources made available by the IIJA to address major freight bottlenecks. A recent report from the American Transportation Research Institute identified the top 100 freight bottlenecks nationwide.<sup>7</sup> 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—are critical to trade. While they are an essential part of the freight distribution system, many are neglected and denied the attention they deserve in spite of their importance to the nation's economy. Just 9% of connectors are in good or very good condition, 19% are in mediocre condition, and 37% are in poor condition.<sup>8</sup> 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 connectors in fair or better condition.<sup>9</sup> 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.<sup>10</sup> Congestion on freight intermodal connectors adds nearly \$71 million to freight transportation costs each year.<sup>11</sup>

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.<sup>12</sup> 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, it is clear that this is simply not good enough. 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.

#### *Prioritization of Projects That Improve Freight Mobility*

Although 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 improve transportation safety and mobility, as well as projects 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. Under the IIJA, States will receive more than \$50 billion per year in federal-aid highway funding, and much of that can be used to repair and modernize existing infrastructure to improve the performance of freight corridors.

Additionally, ATA recommends 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 consideration of alternatives, and layering additional requirements onto the existing process is redundant, costly, and cumbersome. We are also concerned about policies that seek to eliminate or downgrade highways in the name of equity or environmental justice without fully accounting for the impacts of these approaches on supply chain efficiency.

<sup>7</sup> *Top 100 Bottlenecks—2022*. American Transportation Research Institute, 2022.

<sup>8</sup> *Freight Intermodal Connectors Study*. Federal Highway Administration, April 2017.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *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.

<sup>12</sup> *Ibid.*

Furthermore, ATA is concerned about a December 16, 2021 Federal Highway Administration (FHWA) memorandum to its staff that outlined Administration policies with regard to the federal-aid highway program. The memo, in part, directed staff to “encourage” states and other federal-aid recipients to prioritize roadway maintenance and non-highway modal projects over the construction of new highway capacity. This directly contravenes policies that Congress rejected during IIJA debate. While USDOT claims that the memo will not have a substantial impact on project selection, the Government Accountability Office (GAO) disagrees. In a December 15, 2022 report, GAO stated that the memo “... sets out FHWA’s preferred projects for funding under the Infrastructure Investment and Jobs Act. When an agency rule has the effect of inducing changes to the internal policy or operations choices of the regulated community, that rule has a substantial impact on the rights and obligations of non-agency parties.”<sup>13</sup> Therefore, GAO concluded that the memo is subject to the Congressional Review Act. ATA strongly supports current efforts by Members of Congress to pass a resolution of disapproval that negates the effects of the FHWA memo.

#### *Truck Parking*

Another barrier to supply chain efficiency is the shortage of truck parking, which has been well documented for decades. In 2015, the Federal Highway Administration’s Jason’s Law report acknowledged the shortage of truck parking capacity as a serious highway safety concern. The FHWA found that more than 75% of truck drivers and almost 66% of logistics personnel “regularly [experienced] problems with finding safe parking locations when rest was needed.”<sup>14</sup> 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% to 98%.<sup>15</sup>

The lack of available truck parking has a severe impact on the health and wellbeing of truck drivers, but it also contributes to driver utilization inefficiencies. 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, according to a 2016 report.<sup>16</sup> Truck drivers give up an average of 56 minutes of available drive time per day parking early to avoid the risk of being unable to find authorized parking down the road. Additionally, hours-of-service (HOS) violations stemming from an inability to find safe, legal truck parking can be costly as well. HOS fines range from \$150 to \$16,000, and an accumulation of violations can lead to a decrease in a driver’s safety history, leading to higher insurance rates and even license suspension. All of these factors contribute to the driver shortage and supply chain inefficiency.

Federal investment in the expansion of trucking parking capacity is key to addressing this longstanding problem. ATA supports the Truck Parking Safety Improvement Act, which would establish a competitive discretionary grant program and dedicate \$755 million over five years for truck parking projects across the country. Unfortunately, the IIJA did not include dedicated funding for truck parking. We encourage Congress to seek other opportunities to address this critical problem.

#### *Consistent, Sustainable Funding*

Underpinning all 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, because Congress has failed to increase the rate of the federal tax since 1993, inflation has significantly reduced the value of the revenue generated by the tax. 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 State, national, and local pilot programs to explore new revenue sources. ATA looks forward to working with the U.S. Department of Transportation and grant recipients to implement a robust and comprehensive research and testing program.

<sup>13</sup> *Federal Highway Administration—Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America*. U.S. Government Accountability Office, December 15, 2022.

<sup>14</sup> *Jason’s Law Truck Parking Survey Results and Comparative Analysis*. Federal Highway Administration, U.S. Department of Transportation, August 2015.

<sup>15</sup> *Jason’s Law Commercial Motor Vehicle Parking Survey and Comparative Assessment Presentation*. Federal Highway Administration, U.S. Department of Transportation, December 2020.

<sup>16</sup> *Managing Critical Truck Parking Case Study: Real World Insights from Truck Parking Diaries*. American Transportation Research Institute, December 2016.

*Emergency Weight Limits Permit System Reform*

Natural disasters—hurricanes, tornados, floods, wildfires or pandemics, to name a few—can cause serious disruption to communities for days, weeks, or even months. In the aftermath of disasters, the trucking industry gets to work providing life-saving supplies and helping affected communities to recover. Relief and recovery supplies can include water for drinking or fighting fires, food, generators, equipment for rebuilding a decimated power grid, trailers to provide shelter for those who are suddenly made homeless, or building supplies to repair or replace damaged homes, buildings, roads or bridges. In addition, trucks must often remove thousands of tons of debris in order to allow the recovery process to begin.

Most often in these scenarios, time is of the essence. Lives are at risk when potable water is in short supply, hospital or nursing home patients too sick to evacuate do not have the electricity needed to power life-saving medical equipment, or water needed to fight wildfires is in short supply. In these cases, maximizing the trucking industry's ability to move as much cargo as possible, as quickly as possible, is critical. A key to expediting these loads is to maximize a truck's cargo space by allowing the trucking company to exceed state and federal weight limits on a temporary basis.

Federal law limits a truck's gross (total) and axle weights when they are operating on the Interstate Highway System. States determine weight limits on non-Interstate roads. In 2012, federal law authorized states to issue special overweight permits for vehicles and loads that are delivering relief supplies during a Presidentially-declared emergency or major disaster. Both the routes that permitted trucks may operate on and the weight limits are to be determined by each state. A Presidential declaration expires after 120 days. Trucks operating under special permit may only deliver to a destination in the locations covered by the declaration, or haul debris from those locations. An overweight vehicle must have a permit from each state in which it operates if that vehicle exceeds the state's legal weight limits.

In practice the current system has significant flaws. Emergencies that qualify under the Stafford Act are limited to traditional natural disasters such as floods and hurricanes. Certain emergencies, such as the supply chain crisis caused by the COVID-19 pandemic and the energy shortage caused by the cybersecurity attack on the Colonial Pipeline, do not qualify. In addition, relying on a Presidential declaration to enable the issuance of permits is problematic. First, some situations do not rise to the level of a national emergency. Some are more limited in scope, but still require a significant response from the trucking industry. Waiting for a Presidential declaration can also slow the process or make it less effective. Finally, Stafford Act declarations expire after 120 days. In some cases—the COVID-19 pandemic being a good example—emergency response may need to be extended.

To address these challenges, ATA recommends the following changes to federal law governing the issuance of emergency overweight permits:

- A more expansive definition of qualifying emergencies must be implemented to ensure that all potential situations receive an adequate response;
- Both the Secretary of Transportation (or Federal Highway Administrator) and Governors should be given the authority to issue an emergency declaration that enables the issuance of emergency overweight permits. If Governors issue the declaration FHWA should have the authority to override the order if it finds that the declaration is not consistent with Federal law; and
- The Secretary or FHWA Administrator should be given the authority to extend the declaration beyond 120 days.

## IN PURSUIT OF A QUALIFIED WORKFORCE

The trucking industry, which serves as the backbone of our nation's economy and supply chain, continues to face significant driver shortages. In 2022, the shortage of qualified drivers reached a near-record high of 78,000.<sup>17</sup> The already substantial shortage is expected to increase to 160,000 drivers by 2031 absent any changes to the status quo. Furthermore, over the next decade, the industry will need to hire roughly 1.2 million new drivers to keep pace with growing demand and an aging workforce.<sup>18</sup>

The driver shortage is the result of many concurrent factors. Like many industries, we are witnessing how the downstream impacts of the COVID-19 pandemic

<sup>17</sup>ATA *Driver Shortage Update 2022*. American Trucking Associations, October 25, 2022. Available online at: [https://ata.msgfocus.com/files/amf\\_highroad\\_solution/project\\_2358/ATA\\_Driver\\_Shortage\\_Report\\_2022\\_Executive\\_Summary.October22.pdf](https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_Driver_Shortage_Report_2022_Executive_Summary.October22.pdf) (accessed January 19, 2023).

<sup>18</sup>*Ibid.*

continue to exacerbate the trucking industry's already-dire labor constraints. The work to rebuild from the pandemic's effects will certainly take some time. In the meantime, companies working throughout the 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 left unaddressed, could destabilize the continuity of trucking operations with ripple effects across the supply chain that will be felt by every American.

#### *Addressing the Driver Shortage*

Given these realities, ATA is vitally interested in safely expanding the number of professional drivers to meet the demand for freight transportation in our economy. The shortage will only continue to grow unless Congress and regulators modernize requirements 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.

We need Congress and the Administration to help us grow our workforce. The trucking industry offers fulfilling careers with family-sustaining salaries—all without the debt that often accompanies a college degree—but obsolete regulatory barriers prevent the trucking industry from offering these pathways to recent high school graduates who may otherwise want to pursue a career in trucking. Truck drivers make good salaries, with truckload drivers earning a median amount of \$69,687 per year, not including benefits, according to the ATA industry survey for 2021.<sup>19</sup> This represents an 18% increase from 2019.<sup>20</sup> Recent Bureau of Labor Statistics data on weekly earnings in the long-haul trucking sector show that average earnings are \$1,202.04 per week or over \$62,500 when annualized.<sup>21</sup>

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 individuals due to outdated or artificial barriers. One such outdated regulatory barrier is the general prohibition of 18-to-20-year-old drivers from driving trucks in interstate commerce, even though these same individuals are allowed to obtain their CDLs and drive in 49 States and the District of Columbia.

#### *Safe Driver Apprenticeship Pilot Program*

As you know, ATA strongly supported the inclusion of the Safe Driver Apprenticeship Pilot Program (SDAP) into the IIJA, and we are grateful that it was included as Sec. 23022 of the Act. This program, which was the result of a carefully crafted bipartisan compromise, will allow 18-to-20-year-old drivers to be trained as professional truck drivers and drive in interstate commerce, much like they are able to do in intrastate commerce in 49 States plus the District of Columbia. Through this program, the U.S. Department of Transportation will be able to collect data that proves what the States and the District of Columbia already know—that these individuals can be trained to safely operate in interstate commerce, just like they are able to do in intrastate commerce. ATA and its members are actively working to ensure that the entire 3,000 available apprentice slots in the program are filled.

We are enthusiastic about the SDAP and want it to be successful. That said, the rollout of the program has been frustratingly slow, and USDOT added additional requirements not found in law. These include a requirement that participating motor carriers be part of a U.S. Department of Labor-approved Registered Apprenticeship Program (RAP) to be eligible, and a requirement that participating motor carriers utilize another safety technology beyond the six safety technologies already required. I will also note that the latter requirement was added almost eight months after enactment of the IIJA.<sup>22</sup> The last-minute equipment addition prompt-

<sup>19</sup>2022 ATA Driver Compensation Study Executive Summary. American Trucking Association, June 30, 2022. Available online at: [https://ata.msgfocus.com/files/amf\\_highroad\\_solution/project\\_2358/ATA\\_2022\\_Driver\\_Compensation\\_Study\\_-\\_Press\\_Executive\\_Summary.pdf](https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_2022_Driver_Compensation_Study_-_Press_Executive_Summary.pdf) (accessed January 19, 2023).

<sup>20</sup>*Ibid.*

<sup>21</sup>*Employment, Hours, and Earnings from the Current Employment Statistics survey (National). Average weekly earnings of production and nonsupervisory employees, general freight trucking, long-distance tl, seasonally adjusted*, Bureau of Labor Statistics, U.S. Department of Labor, November 2022. Available online at: <https://beta.bls.gov/dataViewer/view/timeseries/CES4348412130.jsessionid=AE34706CE9F6C023880E7FE11F660D0C> (accessed January 19, 2023).

<sup>22</sup>The *Infrastructure Investment and Jobs Act*, Public Law 117–58, was signed into law on November 15, 2021. The additional equipment requirement of an in-cab, inward-facing camera was first announced in a July 2022 Federal Register notice. Agency Information Collection Activities; Renewal of an Approved Information Collection: Safe Driver Apprenticeship Pilot Program, Fed-

ed several motor carriers to decline participation in the program. Others who do not have a RAP may have also chosen not to participate.

ATA, in conjunction with the U.S. Department of Labor (USDOL), has done the work necessary to become a RAP sponsor and, as such, can help our member motor carriers gain eligibility to participate in SDAP. That said, our strong preference is for USDOT to implement the program as Congress prescribed. The SDAP is critical to ATA's workforce development efforts because the data it generates will bolster our calls to eliminate the regulatory barrier preventing safe and qualified drivers from participating in interstate commerce. Given the importance of this program as a potential supply chain solution, we urge the Committee to conduct rigorous oversight of its implementation.

#### *Protect Independent Contractors*

In addition to creating pathways for the next generation of drivers, ATA is also committed to protecting the individuals who choose to become independent contractors (ICs) in the trucking industry. Unfortunately, the independent contractor business model is under sustained attack from some in Congress and government regulators at both the federal and State levels. California's AB-5 has wreaked havoc on our independent truckers in that state, and many motor carriers have been forced to either engage in the wholesale reorganization of their business structures or leave California altogether. Independent contractors are stuck in the middle and their options are limited, expensive, and filled with unnecessary red tape. Litigation on this awful law continues, and while we hope for a good outcome, significant damage has already been done.

At the federal level, a whole host of agencies—including the National Labor Relations Board, the Federal Trade Commission, the Consumer Financial Protection Bureau, and the U.S. Department of Labor—are engaged in activities intended to undermine the independent contractor business model. The Wage and Hour Division of the U.S. Department of Labor published a notice of proposed rulemaking (NPRM) that, if finalized, would create significant safety issues for both our truckers and the motoring public.<sup>23</sup> Unlike the rule currently in effect, the NPRM would create a morass of additional factors to be considered when determining whether an individual is an employee or an independent contractor. In particular, the proposed control provision—control either exercised or unexercised, directly or indirectly, over things like workplace health and safety—will disincentivize efforts to improve health and safety, increase environmental protections, and ensure compliance with other legal obligations in all industries. The proposed control provision will have an especially harmful effect on trucking. Indeed, virtually every motor carrier in our industry has contractual provisions with their ICs requiring adherence to the law, including health and safety, environmental, and taxation standards.

If ICs are prohibited from operating as ICs because the motor carriers with which they contract require ICs to follow the law and doing so transmutes those ICs into employees, then many hard-working entrepreneurs will suffer. The NPRM thus contains a perverse incentive to reduce or eliminate requirements that benefit everyone. As such, the NPRM poses a direct risk to health and safety, the environment, and tax responsibilities, among other things, and directly or indirectly contravenes congressional actions and several other agencies' requirements at the federal, state, and/or local levels.

The trucking industry has been utilizing independent contractors since the inception of interstate trucking, and court decisions over the last 90 years have continually reaffirmed the legitimate role that ICs play in the economy. Employers in our industry are also doing the right thing by adhering to applicable workplace safety requirements and including compliance monitoring—in many instances pursuant to a mandate from USDOT—in their contractual relationships. Some even go beyond what is required by law to make workplaces safer by providing training or equipment as part of their subcontracting arrangements with smaller motor carriers or independent contractors. Motor carriers often take this approach for environmental stewardship or to comply with other legal mandates. This is good corporate citizenship, something to reward rather than turn into a liability by using it as evidence of control for classification purposes.

ATA led a national coalition to convey these and other points to USDOL during the comment period on this NPRM. Our affiliated state organizations provided numerous examples of real-life situations that would be negatively affected by the

eral Motor Carrier Safety Administration, U.S. Department of Transportation, 87 FR 41164 (July 11, 2022).

<sup>23</sup>*Employee or Independent Contractor Classification Under the Fair Labor Standards Act*, Wage and Hour Division, U.S. Department of Labor, 87 FR 62218 (October 13, 2022).

NPRM. We are hopeful that USDOL will recognize the harm that its NPRM would cause if finalized, but if they do not, then we may need to take additional actions to protect the health and safety of our members' employees, independent contractors, and the public. We hope Congress will echo those concerns with the USDOL. While this matter is primarily under the jurisdiction of the Committee on Education and the Workforce, your attention to it is warranted as well due to the negative impacts on the trucking industry and the supply chain it supports.

Furthermore, the USDOL proposal would revoke the freedoms of working Americans to choose occupations and economic frameworks suited to their needs and ambitions. Americans choose to work as ICs because of the economic opportunity it provides and the empowerment to select the conditions (e.g., hours and routes) that align with their lifestyles. Many of ATA's larger member companies today began as one independent contractor with a truck. Accordingly, the Americans who choose to become ICs 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.

The IC model in trucking has also been a source of empowerment for women, minorities, and immigrants seeking to become entrepreneurs. One of ATA's Road Team Captains<sup>24</sup> put several kids through college while working as an independent contractor for one of our motor carrier members. At the driver level, the trucking industry is more diverse than the vast majority of industries in terms of ethnic representation. In many parts of the country, there are substantial concentrations of ICs performing vital supply chain services—Sikh drivers in northern California, Somali drivers in Minnesota, etc. They are as much a part of the trucking industry and supply chain as every employee truck driver, and their choices should be respected.

#### *A Safe and Qualified Trucking Workforce*

*Safe* and *qualified* are the operative words with regard to an expanded workforce. As such, this Committee must ensure that efforts to exempt training requirements for new drivers are rejected, and that efforts to better ensure a safe and qualified workforce are supported. ATA has long supported the Entry Level Driver Training (ELDT) rule, published in 2016 and implemented in January 2022.<sup>25</sup> Ensuring that entry-level drivers receive appropriate instruction from a consistent, industry-wide curriculum is paramount to improving safety on our nation's highways. While most of the trucking industry has embraced ELDT, ATA is discouraged by recent legislative efforts that attempted to exempt certain individuals from this standardized training curriculum. Rampant misinformation online prompted a belief that small businesses and other entities can no longer train their employees "in-house," and that ELDT now requires individuals to pay thousands of dollars in tuition for truck driver training schools. While truck driver training schools are a good option for compliance with ELDT, the regulations do *not* prohibit motor carriers of any size from continuing the in-house training programs they have offered for years. Carriers can complete the self-certification process to be listed on the FMCSA's Training Provider Registry and continue training as they always have.

*Safe* and *qualified* truck drivers are the trucking industry's greatest asset. Conversely, there is no room on America's roads for drivers operating under the influence of a controlled substance. According to the National Highway Traffic Safety Administration (NHTSA), drug prevalence is on the rise among all drivers, and unfortunately truck drivers are not immune to this trend. ATA believes, and the scientific community generally agrees, that hair testing is a proven safety tool for detecting illegal drug use, but the U.S. Department of Transportation does not accept hair tests as an alternative to urinalysis. Furthermore, motor carriers are prohibited from reporting positive hair tests to the Drug and Alcohol Clearinghouse. Truck drivers who have tested positive on a hair test are able to escape accountability and sidestep the rigorous corrective actions that are otherwise required of individuals who are reported to the Drug and Alcohol Clearinghouse. There is nothing to prevent drivers who test positive on a hair test from operating a truck on our nation's highways today. Federal acceptance of hair testing as an independent, alternative testing method would allow employers to use this testing method to identify a greater number of safety-sensitive employees who violate federal drug testing regulations and keep these unsafe drivers off the road, and get them help as well.

<sup>24</sup>America's Road Team is a national public outreach program led by a small group of professional truck drivers who share superior driving skills, remarkable safety records and a strong desire to spread the word about safety on the highway.

<sup>25</sup>81 FR 88732.

## IN PURSUIT OF FAIRNESS AND TRANSPARENCY AT PORTS

The extraordinary volumes of freight that challenged our maritime ports in the past three years exposed competition and infrastructure issues that have bedeviled America's intermodal motor carriers for years. Unfair and illegal treatment of truckers and other port users by foreign-owned ocean carriers and marine terminal operators was exacerbated by the historic inflow of freight. Agricultural exports were left on docks to rot, and bottlenecks led to enormous delays in the delivery of imported goods. Passage of the Ocean Shipping Reform Act last year, the first major rewrite of laws governing port practices in decades, will complement the major investments in IJJA for intermodal port connectors and projects of national economic significance, and ensure that American port users are treated fairly so that import and export goods can move more efficiently through our port facilities. With a level economic playing field in place, port facilities can then play an important and visible role in making our supply chains more sustainable.

*Implementing Ocean Shipping Reforms*

The passage of the Ocean Shipping Reform Act (OSRA) last summer with strong bipartisan support was a major step in the right direction. ATA thanks Rep. Garamendi, Rep. Johnson, and the other members of this Committee for their strong leadership in drafting this legislation and generating the widespread Congressional support that enabled such a substantive piece of legislation to pass on the suspension calendar.

OSRA will bring greater fairness and transparency to the relationships between ocean carriers, marine terminal operators, motor carriers, and shippers. The legislation also equips the Federal Maritime Commission with additional tools to ensure that ocean carriers are meeting their obligations under the law. ATA would like to recognize the Commission for the work they have done to meet the implementation deadlines outlined in the legislation and for the thoughtful approach they have taken in their regulatory proposals. The Commission's actions thus far have focused on increasing transparency between trading partners; for example, the Commission proposed that ocean carriers send detention and demurrage bills only to the person that has contracted for ocean carriage rather than to motor carriers. This will create significant incentives for all parties to provide accurate invoices and resolve any disputes that arise quickly and fairly. This is the kind of transparency that has long been lacking within the intermodal supply chain, and a final rule with these provisions would represent a strong step toward greater cooperation and efficiency among intermodal partners. We look forward to working with this Committee, Congress, and the Commission as the OSRA implementation process continues.

*Addressing Chassis Supply Challenges*

The last few months have seen significant reductions in freight volume coming into the nation's ports, which has alleviated many of the backups and bottlenecks that we saw last year. However, that does not mean that the root causes of these issues have disappeared. The insufficient supply of intermodal chassis needed to move containers was one of the largest contributing factors to the bottlenecks, yet the chassis provisioning process continues to be a source of considerable frustration for motor carriers both at the ports and at inland railheads. While OSRA does contain requirements to study this issue, we believe there are additional changes in this area that would significantly increase efficiency and reduce costs.

Motor carriers are often denied the ability to choose their chassis provider or use their own chassis due to ocean carrier interference in the marketplace. Provisions such as "box rules" permit ocean carriers to dictate which chassis provider must be used to move their containers. These requirements result in artificial limitations on chassis availability, which significantly impacts efficiency and adds unnecessary costs for motor carriers, as well as importers and exporters. ATA is currently litigating this issue before the FMC, in an attempt to resolve this problem without Congressional intervention. However, we encourage the Committee to consider legislation that would allow motor carriers to choose their chassis provider; increasing transparency and efficiency in chassis provisioning is critical to addressing some of the underlying supply problems that enflamed port operations over the last few years.

*Implementing Port Sustainability Initiatives*

Many states with significant maritime port activity are pursuing ambitious climate goals at those facilities. ATA and our members are committed to sound environmental policies but would emphasize that meeting the timeframes envisioned in many of these efforts will require significant advancements in both technology and infrastructure. Even if equipment with advanced environmentally friendly tech-

nologies become commercially available at the scale these climate goals require, the economics of acquiring and deploying that equipment need to be considered, and reasonable timetables set, in order to avoid destabilizing supply chains and the overall economy.

While the IIJA and Inflation Reduction Act contain considerable federal funding to assist ports in this process, the changes that will be required seem certain to bring with them the potential for substantial disruption. ATA urges this Committee to use its oversight authority to balance the focus on improving port efficiency and meeting environmental targets with the economic realities facing trucking and other supply chain providers who will be tasked with meeting those ambitious goals.

In December of 2022, 99.87% of visits to the Port of New York/New Jersey were by diesel-powered trucks,<sup>26</sup> while at the Port of Los Angeles, 93% of container moves and 95% of trucks are powered by diesel fuel with virtually all of the remaining portion powered by natural gas. At the beginning of this year, California prohibited the use of truck engines manufactured prior to 2010 which accounted for 15% of all containers moves at the Port of Los Angeles in November.<sup>27</sup> (The figure for New York/New Jersey is even higher at 30.48%.<sup>28</sup>) Thus far, the reduction in freight levels has meant that this requirement has not impacted the overall supply chain. However, the California Air Resources Board is considering a regulation phasing out older trucks each year and ultimately allowing only zero emission trucks at the ports by 2035.<sup>29</sup> This would mean all drayage trucking companies would need to replace their fleets entirely. While ATA has expressed our significant concerns regarding this potential regulation and similar efforts in other locations, there is little question that as new technologies become available, trucking companies will need to make substantial upgrades in their equipment at considerable cost in the years to come. As we look more closely at the fleets serving the nation's ports, we see that at ports as in most of the trucking industry, smaller companies comprise a significant portion of the overall trucking fleet. Truck statistics from the Port of Los Angeles show that 67% of fleets registered to work at the port have less than 20 trucks and these companies account for more than 27% of container moves.<sup>30</sup> Ensuring that trucking companies, especially smaller businesses, can make any required technological transition is critical to the ability of the trucking industry to meet the needs of our customers at the ports.

There is a critical role for Congress to play in continuing to ensure that the laws governing maritime freight ensure fairness as well as to help increase efficiency at ports and ensure that they have the resources they need to upgrade their facilities to meet future technology requirements. The Ocean Shipping Reform Act brought long-needed change, but the work is not done, and we look forward to working with the Committee to draft and enact additional legislation to ensure that foreign-owned ocean carriers treat all participants in the supply chain fairly. The IIJA provides significant resources to improve port operations and we are optimistic that this important funding will be used to implement new technologies to streamline operations as well as make the critical infrastructure improvements that will lead to more efficient operations. Together, we hope these changes will help us avoid the types of bottlenecks that we saw over the last two years when higher volumes return to the supply chain.

#### IN PURSUIT OF ACHIEVABLE ENERGY AND EMISSIONS POLICIES

The trucking industry has an admirable story to tell about our ongoing emissions reductions and sustainability initiatives and looks forward to working with Congress and regulatory agencies to set ambitious, achievable environmental goals. Our industry has made major steps over the past forty years to reduce our emissions even as the trucking industry has grown to transport more than 70% of all freight in the United States. One of the primary ways our industry has achieved these tremendous emission reductions is through incredible advancements in engines and emis-

<sup>26</sup> *PortTruckPass Comprehensive Report*. Port Authority of New York and New Jersey, December 2022.

<sup>27</sup> *Clean Truck Program (CTP)—Gate Move Analysis*. Port of Los Angeles, December 2022. Available online at: <https://kentico.portoflosangeles.org/getmedia/452bad8c-4e16-490f-bab6-155b061866bb/POLA-Monthly-Gate-Move-Analysis> (accessed January 19, 2023).

<sup>28</sup> *PortTruckPass Comprehensive Report*. Port Authority of New York and New Jersey, December 2022.

<sup>29</sup> California Air Resources Board Proposed Advanced Clean Fleets Regulation. Available online at: <https://ww2.arb.ca.gov/rulemaking/2022/acf2022>

<sup>30</sup> *Clean Truck Program (CTP)—Gate Move Analysis*. Port of Los Angeles, December 2022. Available online at: <https://kentico.portoflosangeles.org/getmedia/452bad8c-4e16-490f-bab6-155b061866bb/POLA-Monthly-Gate-Move-Analysis> (accessed January 19, 2023).

sion control systems that make today's trucks significantly cleaner than the past. A new truck today emits 99% fewer particulate matter emissions than one in 1985, and 99% fewer nitrogen oxide (NOx) emissions than one in 1975. By comparison, 60 trucks today emit the same pollution as a single truck manufactured in 1988.

Our industry is unwaveringly committed to environmental sustainability. We have a long history of working with the U.S. Environmental Protection Agency (EPA) to reduce emissions and improve transportation efficiency through programs like the Cleaner Trucks Initiative and the voluntary SmartWay program. As a result of these efforts, participating fleets have saved billions of dollars in fuel costs, reduced oil consumption, and eliminated millions of tons of air pollutants. EPA SmartWay estimates that the program has helped its partners save 357 million barrels of oil since 2004.<sup>31</sup> If one barrel of oil produces 11 to 12 gallons of diesel fuel,<sup>32</sup> that means trucking companies participating in the SmartWay program have saved more than 4 billion gallons of fuel—over \$19 billion at current prices—in the last eighteen years.

In 2006, our industry began phasing out harmful sulfur in diesel fuel, and practically eliminated sulfur oxide emissions. ATA championed two separate EPA and NHTSA regulations in 2011 and 2016, establishing the first-ever truck engine, vehicle, and trailer greenhouse gas (GHG) emission and fuel consumption standards—known as Phase 1 and 2, respectively. In total, between 2014 and 2027, the combined Phase 1 and 2 GHG standards stand to cut CO2 emissions by 1.37 billion metric tons, saving vehicle owners and operators \$220 billion in fuel costs and reducing oil consumption by up to 2.5 billion barrels of oil over the lifetime of the vehicles sold under the program.

The trucking industry supports cleaner transportation technologies and fuels to protect our environment and diverse communities. As a society, we rely on trucks in our daily lives to receive everything from groceries, to mail, to packages—as we say in the industry, “if you got it, a truck brought it.” Fleets don't make trucks—they are *consumers* that buy trucks; however, it is trucking companies that buy technologies that ultimately dictate the success or failure of any emission regulation or policy agenda. Trucks are not restricted by geography. They cross city, county, state, and international borders on a routine basis. It is for this reason that ATA supports national harmonized standards for the trucking industry.

As Congress and the Administration consider laws and regulations to meet ambitious environmental goals, ATA will evaluate proposals to determine whether they improve trucking's emissions profile, are technology neutral, significantly increase the cost of maintenance, are thoroughly tested, and are widely available to all segments of the industry. Trucking will work with our partners in every mode of the supply chain, the supplier community, and regulators to develop and deploy technologies that can achieve major improvements in sustainability. To accomplish those improvements, we need to ensure that the fuels that currently power our nation's supply chains are affordable for trucking fleets of all sizes, that the costs of clean heavy-duty vehicles do not serve as financial barriers to entry, and that national standards are put in place for key pollutants.

#### *Powering the Future of Transportation Affordably*

While diesel remains the key fuel source for our industry, new technologies that capture pollutants from diesel fuel have enabled the trucking industry to significantly reduce its emissions. However, investments in these new technologies are more challenging because of increasingly volatile fuel prices, which create existential challenges for fleets of all sizes. According to the American Transportation Research Institute's (ATRI) annual survey of the industry, fuel is the second-highest operating cost for trucking and accounts for 22% of the motor carriers' average marginal costs.<sup>33</sup> The burden of high, volatile energy costs falls hardest on small fleets. These smaller trucking companies, which are typically family-owned, struggle to operate in a competitive business environment when fuel prices and regulatory demands for cleaner equipment force those operating costs upward.

Surges in diesel prices hit the trucking industry hard and can cost the industry an additional tens of billions of dollars, which increases prices for American families and makes it more difficult for the industry to invest in new equipment and technology. In 2019, U.S. trucks consumed 45.6 billion gallons of distillate fuel—36.5 bil-

<sup>31</sup> *SmartWay Program Successes*, U.S. EPA, Available online at: <https://www.epa.gov/smartway/smartway-program-successes>.

<sup>32</sup> *Frequently Asked Questions*, U.S. EIA, Available online at: <https://www.eia.gov/tools/faqs/faq.php?id=327&t=10>

<sup>33</sup> *An Analysis of the Operational Costs of Trucking: 2022 Update*, American Transportation Research Institute, August 2022.

lion gallons of which were diesel fuel.<sup>34</sup> The trucking industry's diesel fuel bill in 2019 was \$112 billion when prices were \$3.00/gallon. However, diesel prices rose throughout 2022, reaching a high of \$5.81/gallon—90% higher than 2019 average prices. This would result in an annual diesel fuel bill exceeding \$200 billion for the American trucking industry, nearly a \$100 billion per year increase.

To address these critical fuel supply issues, ATA supports immediate action to increase domestic production of oil and gas. This can be achieved by expediting oil and gas permitting and removing regulatory barriers that were put in place in 2021. Additionally, offshore oil and gas lease sales should be considered in the current production areas of the Central and Western Gulf, as these can be brought online in a few short years and would send a powerful signal to world oil markets. Financial restrictions on oil and gas investments should also be removed to encourage exploration and development in an environmentally responsible way. Further, Congress should restore parity in tax incentives for renewable diesel and renewable natural gas with Sustainable Aviation Fuel, which benefitted from higher tax incentives under the Inflation Reduction Act and put trucking at a competitive disadvantage for renewable fuels with other modes of transportation.

#### *Availability of New Clean Equipment and Supporting Infrastructure*

Mandates for emissions reduction and decarbonization will require the widespread deployment of new, cleaner, or alternative fuel vehicles that are significantly more expensive, and which are not yet widely available. The antiquated Federal Excise Tax (FET) on heavy-duty vehicles, created by Congress to fund America's participation in World War I, adds an additional 12 percent to the cost of every new truck. If Congress is serious about reducing emissions from trucking and the supply chain, then the first step is to remove this onerous tax and immediately make new, clean equipment more affordable.

As Congress considers a path towards transportation electrification and conducts oversight of IJJA investments in EV charging and alternative fuel infrastructure, it is essential that existing fuel providers be prioritized. There is a symbiotic relationship that exists between trucking and our fuel providers. The energy transition can only work for trucking if it works for our fuel providers. It is essential that these IJJA alternative fuel grant dollars are distributed to entities that are attuned and responsive to the trucking industry's evolving needs.

The reality for many of these new technologies is that they are not yet commercially mature, and the deployment of equipment and supporting infrastructure will take time and money. Unrealistic mandates that are impossible for businesses to achieve may serve political purposes, but not practical ones. The transition to battery electric and zero emission vehicles can only occur after we make massive improvements to the national energy grid, install sufficient charging and fueling infrastructure nationwide, and increase the availability of affordable alternative fuel power units. Without all those elements, any mandate is destined to increase costs for supply chains, disrupt commerce, and fail to achieve emissions reduction goals.

For example, take battery electric vehicles—mandated by California and other states as the go-to replacement for internal combustion engine vehicles. A recent study from the American Transportation Research Institute (ATRI) raises significant doubts about the grid's ability to handle a transition to battery electric trucks. Electrification of the U.S. vehicle fleet would consume 40.3% of the current total electricity demand when our aging grid can hardly sustain its current energy needs.<sup>35</sup> In California where rolling blackouts are common, utilities would need to generate an additional 57% of their current total electricity output to support an electric vehicle fleet.<sup>36</sup>

We also know the United States' minerals supply chains are not prepared for an abrupt transition to battery electric technology. To produce the lithium-ion batteries that would power the hundreds of thousands of long-haul power units needed to meet the Administration's emissions goals, we need tens of millions of tons of cobalt, graphite, lithium, and nickel, and that amount could take as long as 35 years to acquire given current levels of global production.<sup>37</sup> Expanding that capacity raises enormous ethical questions and costs related to both developing nations' exploitive child labor policies and the carbon reduction problem that battery production intends to resolve.

<sup>34</sup> *ATA Economics and Industry Data*. American Trucking Associations. Available online at: <https://www.trucking.org/economics-and-industry-data>

<sup>35</sup> *Charging Infrastructure Challenges for the U.S. Electric Vehicle Fleet*, American Transportation Research Institute, December 2022.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

To provide a proper accounting, we need a holistic view—from “well to wheel”—that includes the total cost of carbon output through its lifecycle, from extraction, production, and transportation of the mined and refined product to ultimate fuel use. In the case of lithium mining, production creates considerably more CO<sub>2</sub> and pollution than does the manufacturing of internal combustion engine materials alone. In some operations, a minimum of one million gallons of water are necessary to produce a single pound of lithium.<sup>38</sup>

Fleets face several practical challenges when acquiring battery electric technology. Few public fast charging stations currently have the space and infrastructure needed to accommodate battery electric heavy-duty vehicles, and building more stations could exacerbate the existing shortage of safe commercial truck parking. Battery electric truck models currently sell for significantly higher costs than do typical diesel trucks, and the number of models that are commercially available is limited to a small selection. Long-haul heavy trucks with significantly heavier batteries suffer from limited range and reduced payload capacity. And while some of these challenges can be mitigated with longer payback periods or the installation of private or semi-private charging facilities, we know this technology will require unprecedented advancements in battery range, capacity, and power grid integration to become a truly viable option for most operators.

Interestingly, the Biden Administration’s multiagency *U.S. National Blueprint for Transportation Decarbonization* identifies battery electric technology as a “limited long-term opportunity” in the long-haul segment and points out better-positioned opportunities with hydrogen and sustainable liquid fuels.<sup>39</sup> These alternatives offer advantages in energy density, comparable refueling times with diesel fuel, and in the case of sustainable liquid fuels like biodiesel and renewable diesel, compatibility with many current internal combustion engine configurations. Despite the promising role of these liquid fuels in achieving emissions goals, the last Congress failed to level the playing field between Sustainable Aviation Fuels and other alternative renewable fuels when it passed the Inflation Reduction Act last year. ATA strongly encourages Congress to take action to lower the costs of new, clean equipment for trucking and, as mentioned before, restore parity in tax incentives for clean, renewable, alternative fuels to power future generations of clean trucks.

#### *Harmonizing Federal and State Emissions Requirements*

ATA supports emissions regulations that are ambitious yet achievable. However, proposals by California and other states would create a patchwork of truck engine and fleet sales standards that are unworkable for trucking. National goals for emissions reductions and environmental sustainability need to be facilitated by achievable national standards.

The next round of GHG emission regulations will address a national zero-emission vehicle (ZEV) pathway. The President’s August 2021 Executive Order requires EPA to complete a Phase 3 Rule by the Summer of 2024. With initial discussions already underway, new stringent carbon metrics for new heavy-duty vehicles will take effect beginning in 2030. The trucking industry supports the pursuit of one national ZEV plan that is reasonable, logical, affordable, and the least-disruptive to the nation’s supply chains; establishing an unworkable piecemeal approach to address the nationwide impacts of climate change would impose chaos on trucking operations, supply chains, and the economy.

No single state will move the national needle on climate change, but a 50-state approach may. All 50 states in our country together face compelling and extraordinary conditions posed by global warming. The country as a whole may meet CAA Section 209(b)(1)(B) compelling and extraordinary conditions insofar as climate change is concerned, but such waiver definition is better applied to the whole of the country. This matter is not defined as “global warming” by chance, and opportunities to address potential solutions are best championed by national thought leaders.

As purchasers of new trucks and equipment and as an integral link in the American supply chain, trucking is keenly aware of the costs of new requirements and their impacts on energy supplies and supply chains. Projecting forward, fleets are apprehensive about product unavailability, infrastructure delays, and high upfront equipment and supply costs that will undoubtedly eat into their narrow profit margins. That is why our members support one national, low-NO<sub>x</sub> standard; a patchwork of state regulations is unworkable for an industry that crosses state lines daily.

<sup>38</sup> *Ibid.*

<sup>39</sup> *The U.S. National Blueprint for Transportation Decarbonization*, page 50, U.S. Department of Transportation, January 2023.

For example, the implementation of a unique NOx program in California (which may be expanded to some opt-in states under Section 177 of the Clean Air Act) will put at least two different regulatory programs in play nationwide, which is unworkable and problematic for interstate freight transportation. Truck manufacturers would not only face the prospect of two different product lines, but also two different sets of engine certification requirements and two different review and approval processes for these products. This will undoubtedly add to the already high cost of bringing new engines to market and create duplication in the administrative approval process. Truck fleets purchasing new equipment will be forced to make difficult decisions on which product line and price point fits their operational needs to meet customer demands.

ATA does not define “harmonization” as federal standards mirroring those of a single state, such as California. California has unique air quality issues given its large population and unique geographical features. Their regulations should not automatically become the template for establishing the next national low-NOx standard. Our definition of “harmonization” is the creation of one federal standard that reduces NOx emissions nationwide, is technologically and economically achievable, and does not impede trucking operations or purchase plans across the country. If one national standard across the country is not established, fleets will become creative with how, where, and when they purchase equipment to remain compliant. For example, while States such as California will not allow you to register new trucks purchased outside the State that do not meet the California Air Resources Board’s (CARB’s) low-NOx and warranty requirements, such vehicles can be purchased and operated outside the State and then be registered in California once their odometers hit 7,500 miles. Other states may have similar registration provisions.

Such creativity will be continually challenged by additional regulations, which will in turn needlessly complicate purchasing decisions for our nation’s trucking fleets. As an example, in addition to the NOx program, California is moving forward with its Advanced Clean Trucks (ACT) Rule. The intent of the ACT Rule is to expedite in-state decarbonization efforts within the freight sector. This regulation requires manufacturers who certify Class 2b-8 chassis or complete vehicles with combustion engines to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035 and beyond. By 2035, zero-emission truck/chassis sales would need to be 55 percent of Class 2b-3 truck sales, 75 percent of Class 4–8 straight truck sales, and 40 percent of truck tractor sales. CARB’s companion Advanced Clean Fleets (ACF) Rule will direct large fleets operating in-state to purchase increasing percentages of ZEVs beginning as early as 2024. Layering these blanket requirements on a state-by-state basis unnecessarily complicates business decisions for every company in the trucking industry, but especially for medium and small family-owned fleets.

While California has its unique topography and associated air quality issues, it is imperative that the state and EPA find common ground in plotting a path forward. Putting differences aside, ATA encourages EPA and CARB to ultimately unify their approaches. Fleets have choices and if one harmonized national standard cannot be achieved, fleets may be forced to change their business models and purchasing decisions. As Congress considers long-term legislation to combat climate change, and conducts oversight of federal agencies, ATA strongly encourages the development of clear, achievable, national goals.

#### IN CONCLUSION

I am grateful for the opportunity to testify before you today on behalf of the American Trucking Associations and the 8 million people in trucking related jobs who power our nation’s supply chains and keep the wheels of the economy turning. For the Committee to focus its first hearing on the status of our supply chains is encouraging; it is imperative that we as a nation continue to be mindful of the importance of safe and efficient freight transportation and its impact on the wellbeing of our nation. Trucking is the dynamic linchpin of the U.S. economy, and as I have emphasized in my testimony, the industry can only be as efficient as the roads and bridges upon which we operate.

Looking forward, Congress should seize opportunities to enhance the efficiency and resiliency of the supply chain, and that must involve smart oversight of IIJA implementation, as well as efforts to empower the next generation of *safe* and *qualified* transportation workers. By resolving key supply chain bottlenecks, making port operations fairer and more efficient, and taking meaningful steps towards environmental sustainability, we can grow our economy and ensure American competitiveness for generations to come. I look forward to working with Chairman Graves,

Ranking Member Larsen, and the other Members of the Committee to support efforts to meet those challenges. Thank you.

Mr. GRAVES OF MISSOURI. Thank you very much.

We now turn to Ian Jefferies, who is the president and chief executive officer of the Association of American Railroads. Thanks for being here, Ian.

**TESTIMONY OF IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS**

Mr. JEFFERIES. Chairman Graves, Ranking Member Larsen, members of the committee, thank you for the opportunity to be here today representing America's freight railroads. And thank you also to my colleagues and friends at the table today who are all critical to the integrated supply chain. Collectively, we work together to move the goods the Nation relies on to grow and thrive.

Taking a moment to reflect, railroads were a prominent part of the national discourse over the past year. From untangling pandemic-related supply chain challenges to a historic collective bargaining round that culminated at the end of the year, railroads were in the national spotlight like never before. Certainly, this level of exposure has its pros and cons, but one core truth was clear: Freight rail is critical to the economy.

To that end, while it is important to reflect on and learn from past experiences, it is equally important to focus on the here and now with an eye toward the future. And so, I hope you take away four things today from my remarks.

First, safety is at the forefront of everything railroads do. Our industry operates a 24/7, 365 outdoor assembly line handling a mix of traffic across every terrain imaginable, and we do it safely, every day working toward the ultimate goal of zero injuries and zero deaths. We have more work to do, and we have got to shoulder into it to keep driving towards that end game.

The past decade has been the safest in history for the railroads, and we are safer than almost every industrial sector you can compare us to. Our employees deserve immense thanks and appreciation for their role in safely moving America's freight day in and day out. Their commitment is unparalleled. Yes, last year's bargaining round was challenging, yet we are glad to see the terms of the agreement go into effect, including historic pay increases, the highest in five decades; maintenance of best-in-class healthcare; and a path to further improve quality of life and work-life balance issues that remain in our industry.

Know this: Railroads continue to provide some of the highest compensated jobs with the best benefits of any industry in the country. And yet, we recognize that employee relations is a never-ending process. We are committed to modernizing jobs to reflect evolving employee values and priorities and, in turn, building an appropriately staffed and more resilient railroad to not only serve today's demand, but the demand that will come in the future. And this is happening on-property as we sit here today.

Hiring continues throughout our industry at a time when we read about countless layoffs in industries every morning in the paper. Railroads continue to hire, with train and engine workers

up nearly 10 percent in the past 12 months, and overarching rail employment level is up just over 6 percent as well.

Third, our investments, not only in our employees but in our top-rated infrastructure, is creating a network built to serve customers today and into the future. Each year, railroads invest billions of their own funds to maintain and expand their infrastructure. The result: The highest rated infrastructure in the country, according to the American Society of Civil Engineers.

For context, railroads invested an average of \$24 billion annually of their own funds over the past 15 years. That is \$1 billion more than the investments Congress made in this year's historic level of spending in rail and multimodal programs as part of the IIJA and the omnibus combined. So, if the IIJA's investments are historic, I guess railroads make history every year with their investments.

Last, in no small part because of these factors I have outlined, service is improving. Over the past year, we certainly had service challenges, and many of our customers didn't receive service that they deserve and expect. And so, we have kept a shoulder into that, working hard, and the results are coming. Velocity, terminal dwell, trip plan compliance, other measurements, other metrics are improving across the board, and even our regulator, the STB, recognizes that as well. Still more work to do, and we are continuing to drive those processes forward.

Now turning to matters of direct import today. AAR and its members absolutely supported the infrastructure bill. Of course, no bill is perfect, as Chris said. And certainly we had issues with some of the pay-fors. We would like to get back to a user pay structure with the highway system, but it had numerous positives. Specifically, the creation of a multibillion-dollar grade crossing elimination initiative will pay dividends into the future, reducing accidents, limiting motorist delay, and increasing freight fluidity.

And while we proudly fund our own infrastructure, we will work diligently with our public partners in States and towns across America so that they can leverage the CRISI program, Mega program, INFRA program and other grant programs out there.

Looking at agency oversight, we continue to have concerns about the Federal Railroad Administration's view on technology and technological deployment. We need a champion, we need a partner about getting new technology that is going to drive safety to its next levels, not one that is going to hold us back. And so, we can get into that further, but I see my time is running out. And thank you for holding this today, and I look forward to the discussion.

[Mr. Jefferies' prepared statement follows:]

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

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify today. AAR members account for the vast majority of North America's freight rail mileage, employees, revenue, and volumes as well as Amtrak and some passenger rail.

U.S. freight railroads operate a network spanning more than 136,000 miles and serve every industrial, wholesale, retail, agricultural, and mining-based sector of our economy. Together with their Canadian and Mexican counterparts, U.S. railroads form the world's best freight rail system (Figure 1).



Figure 1

In this testimony, I will provide general background on railroads; discuss steps railroads have taken to improve service over the past year; provide an overview of rail labor issues; and discuss what policymakers can do to maintain a regulatory and legislative framework conducive to moving freight by rail.

#### FREIGHT RAILROADS OFFER ENORMOUS BENEFITS TO OUR NATION

America's freight railroads are proud of the tremendous role they play in the U.S. economy. The operations and capital investments of America's major freight railroads support a million or more jobs and several hundred billion dollars in nationwide economic activity, wages, and taxes.

Moving freight by rail meaningfully reduces greenhouse gas emissions. In 2021, U.S. freight railroads moved a ton of freight an average of nearly 500 miles per gallon of fuel, making railroads three to four times more fuel efficient than trucks. Safety is the foundation of everything the railroads do, and the past decade has been the safest in rail history. The train accident rate in 2021 was down 30 percent from 2000; the employee injury rate was down 47 percent; and the grade crossing collision rate was down 23 percent.

#### Railroad Accident Rates: 2000–2021

Total accidents	–30%
Collisions	–50%
Derailments	–35%
Other	–9%
Employee injuries	–47%
Grade crossings	–23%
Hazmat incidents †	–60%

† Through 2020. Source: FRA, AAR

Figure 2

Unlike trucks, barges, and airlines, America's privately-owned freight railroads operate almost exclusively on infrastructure they own, build, maintain, and pay for themselves. From 1980 to 2022, freight railroads spent more than \$800 billion of their own funds, not government funds, on capital expenditures and maintenance

expenses. That's more than 40 cents out of every revenue dollar invested right back into a rail network that keeps America's economy moving.

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 2021 than in 1981. Changes in rail rates over time compare favorably to changes in the prices of things we buy every day (Figure 3).

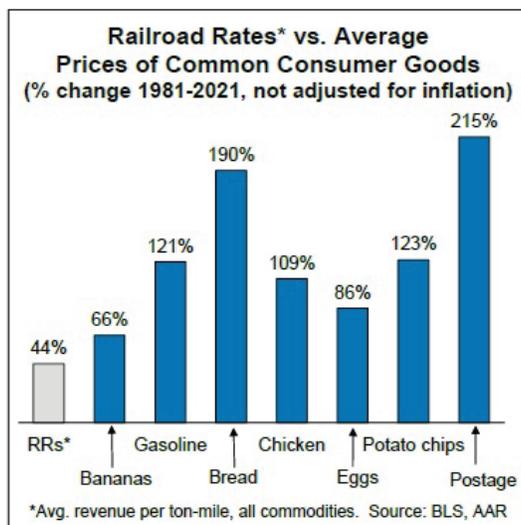


Figure 3

#### RAIL CUSTOMERS DESERVE SAFE, RELIABLE SERVICE

Railroads know rail service over the past year has not been what their customers want or deserve and are fully committed to restoring service to a consistently high level.

##### *Hiring and Retaining a Robust Rail Workforce*

Over the past two years, railroads, along with virtually every other industry, have found that attracting and retaining enough employees to meet their needs has been a major challenge. The pandemic turned labor markets upside down. When rail traffic collapsed, railroads deployed a long-standing method of temporarily furloughing some employees. As the economy recovered faster than anyone expected, and demand for rail service surged, far fewer furloughed employees chose to return than historical patterns would suggest, leaving railroads without sufficient workforce. We now know that furlough policies must be carefully reviewed to build more resiliency into the system to better ride economic ups and downs.

To this day, competition for workers remains fierce. In December 2022, the national unemployment rate was 3.5 percent, matching the lowest it's been in 50 years. In many key railroad states, the unemployment rate is even lower. The extremely tight labor market means railroads' single-biggest service-related challenge is finding and keeping employees.

I'm happy to say, though, that railroads are making progress. Total Class I railroad employment in December 2022 was up 6.8 percent over January 2022.<sup>1</sup> Train and engine employment (mostly engineers and conductors in locomotive cabs) was up 9.6 percent in December 2022 over January 2022. Railroads are taking many concrete steps to recruit new employees and continue this progress, including hiring bonuses, relocation bonuses for current workers who move to high-need areas, and employee referral bonuses. In fact, this month Union Pacific reported that last year it received 12,000 employee referrals which led to 1,200 job offers. Railroads are con-

<sup>1</sup>Class I railroads are those with annual revenue in 2021 of at least \$944 million. The seven U.S. Class I railroads account for approximately 95 percent of U.S. freight rail industry revenue.

fidest they will continue successfully recruiting the next generation of railroad workers to meet the nation’s rail freight demand.

#### *Investing in Rail Infrastructure*

America’s freight railroads operate overwhelmingly on infrastructure they own, build, maintain, and pay for themselves. In recent years, railroads invested close to \$70 million every day, on average, back into the network, making railroads at or near the top among all U.S. industries in terms of capital intensity (Figure 4). Thanks to this spending, “crumbling” might describe some U.S. infrastructure, but not freight rail. The American Society of Civil Engineers has consistently awarded rail the highest grade of all American infrastructure.<sup>2</sup> U.S. freight rail infrastructure is in better overall condition today than ever before.

#### Capital Spending as % of Revenue †

<b>Average all manufacturing</b>	<b>3.0%</b>
Petroleum & coal products	2.3%
Food	2.3%
Machinery	2.6%
Motor vehicles & parts	2.8%
Fabricated metal products	3.2%
Primary metal products	3.2%
Wood products	3.4%
Plastics & rubber products	3.8%
Chemicals	3.8%
Paper	4.3%
Nonmetallic minerals	4.4%
Computer & electr. products	5.0%
<b>Class I Railroads</b>	<b>18.4%</b>

† Avg. 2012–2021. Source: Census Bureau, AAR

Figure 4

Railroads remain firmly committed to investing in and growing their operations to improve and expand service, as evidenced by the plans announced by many of the railroads to expand capacity:

- BNSF recently announced a 2023 capital investment plan of \$3.96 billion and will invest more than \$1.5 billion in the Barstow International Gateway, a new state-of-art integrated rail facility in Southern California.
- Union Pacific plans to spend close to \$2 billion in 2023 on maintenance and capital spending and opened a new intermodal facility in Oregon in December, which will encourage agricultural shippers to bypass the congested I–5 corridor in the Pacific Northwest.
- Norfolk Southern has announced major investments including capacity projects in the Chicago-Cincinnati-Jacksonville and Atlanta-Birmingham-New Orleans/Mobile corridors.
- CSX began work in late 2021 on a multi-year project to enlarge the Howard Street Tunnel that runs beneath Baltimore and clear obstructions at 22 other locations between Baltimore and Philadelphia.

The list goes on. Kansas City Southern, CN, Canadian Pacific—even short line systems like Genesee and Wyoming and Watco—continue to spend massively, including on new capacity, to improve the safety, resiliency, and reliability of their networks.

Railroads are making these investments because they want to grow with their customers through a safe, fluid, and reliable network. These investments will improve service now and help railroads and their customers better weather service disruptions in the future.

#### *Metrics Show Service is Improving*

Data reported by individual railroads and compiled by the Surface Transportation Board (STB) indicate that railroads are making progress on a variety of key service metrics. A recent STB report stated that railroads are meeting six-month targets

<sup>2</sup> See American Society of Engineers, *2021 Report Card for America’s Infrastructure* (available at <https://infrastructurereportcard.org>).

for service improvement, with key performance indicators trending in a positive direction.

For example, average train speeds have all been trending higher for most railroads over the past nine months. The same holds true for manifest trains<sup>3</sup>, coal unit trains<sup>4</sup>, grain unit trains, and intermodal trains. Average terminal dwell time<sup>5</sup> has been falling for most railroads and the percentage of rail cars in manifest trains delivered within 24 hours of their original arrival estimate has been trending higher. Train recrew rates<sup>6</sup> have been trending down for most railroads as well. All these metrics point to a more fluid, more efficient system.

It's not just STB data that show recent improvement in rail service levels. A recent survey of rail shippers by Wolfe Research, a highly respected Wall Street investment and advisory firm, found that "Rail service ratings ... have reached their highest level in our survey in the past 10 quarters."<sup>7</sup> The pace of rail service improvement might be slower than some rail customers and policymakers would prefer, and not every service metric for every railroad has been improving in recent months, but the progress railroads have made is unquestionably good news and the work to improve service is continuing.

#### RAIL LABOR NEGOTIATIONS

Railroads are pleased to have concluded the round of national collective bargaining with the twelve major rail unions at the end of last year. The historic agreements reached in the round were based on the recommendations of neutral arbitrators appointed by President Biden and were facilitated directly by senior members of his administration. These agreements contain a 24 percent wage increase, the largest compensation increases seen in the industry in approximately 50 years. They also maintain the railroads' platinum-level healthcare plans, provide additional paid time off for all represented rail workers, and establish a process and timeline for the railroads to work directly with the operating craft unions to make additional work rules changes this year that will enhance predictability and quality of life for those employees who currently have the least predictable schedules. We would like to thank Congress for the swift, bi-partisan action to avert a shutdown of the nation's rail system.

The industry and its employees take great pride in the work that they do to move the nation's freight and support the U.S. economy. Rail jobs are, and always have been, great jobs. The recent national agreements will ensure that railroad compensation and benefit levels remain near the very top of the American workforce. However, even though the bargaining round is behind us, the railroads recognize that more can be done to enhance the work-life balance traditionally associated with certain types of rail employment. Individual carriers are already engaging with the rail unions to discuss steps that can be taken to modernize railroad work rules and provide greater flexibility for rail employees to structure their personal lives. In this regard, the railroads look forward to productive and collaborative discussions with the rail unions.

#### OPPORTUNITIES FOR THE 118TH CONGRESS

The 118th Congress will play a critical role as railroads continue to find innovative ways to improve safety, coordinate with state and local governments to invest in infrastructure, and work with regulators and customers to enhance service.

##### *Supporting Innovation and Technology to Improve Safety*

Safety is the foundation of everything the railroads do, and railroads have long applied technological solutions to improve safety, enhance performance, and create efficiencies. The industry has made major progress in safety over the last few decades. The next great leap forward in safety directly relies on the ability of railroads to innovate and deploy new technology but achieving the maximum benefit from these new technologies requires regulatory flexibility. While other Department of Transportation modal agencies are working to support greater automation and the safety benefits that accompany such technology, the Federal Railroad Administra-

<sup>3</sup>Manifest trains are trains carrying a variety of different commodities.

<sup>4</sup>A unit train is a train carrying just one commodity.

<sup>5</sup>Terminal dwell time is the time a railcar sits in a rail yard before being switched into an outbound train.

<sup>6</sup>Train recrew rates is the percentage of rail train crews who had to go off duty before trains completed their runs because their allowable on duty time expired.

<sup>7</sup>Wolfe Research, "The State of the Freight—1Q Shipper Survey."

tion (FRA)—railroads’ prime safety regulator—stands alone in its efforts to lock in yesterday’s regulatory approaches.

Congress can support the goal of achieving better outcomes through new technology by ensuring the FRA becomes increasingly forward-looking in how it proposes and promulgates new rules, particularly when innovation can improve safety. Identifying specific safety concerns a new rule is meant to address; relying on sound science and building robust data sets to support rules; identifying specific metrics to measure effectiveness; adopting performance-based, rather than prescriptive regulations; and issuing waivers that facilitate new technology will all enhance the industry’s ability to innovate and create new ways to improve safety while still being subject to FRA oversight.

For example, automated track inspection (ATI) is changing the nature of track inspection by allowing railroads to gather massive amounts of data, analyze it for patterns and warning signs, and preventatively maintain their track. In some instances, ATI testing of track has resulted in more than a 90 percent reduction in the rate of unprotected main track defects found, yet the FRA is preventing railroads from widely implementing this safety-enhancing technology.<sup>8</sup>

Another example of FRA failing to understand the importance of technology in improving safety is the July 2022 Notice of Proposed Rulemaking (NPRM) that, for all intents and purposes, would mandate two crew members in a locomotive cab.<sup>9</sup> Proponents of a two-person crew mandate for railroads, including current FRA leadership, say it would enhance rail safety. There is no data to support this claim. In fact, many railroads—including shortline, passenger, and most European railroads—already operate with a one-person crew in the cab. We do know, however, that a two-person mandate could stifle the adoption of other new technologies that would enhance railroads’ safety and efficiency. Crew size has always been, and should continue to be, collectively bargained and the flexibility to evolve and adapt should be maintained.

#### *Implementing the Infrastructure Investment and Jobs Act*

Railroads appreciate the work of this Committee and the 117th Congress to pass the Infrastructure Investment and Jobs Act (IIJA) in 2021. IIJA’s grant programs enable the public sector to partner with freight railroads and others to advance projects that provide significant public benefit. The Consolidated Rail Infrastructure and Safety Improvements (CRISI) program appropriates \$1 billion per year for projects that improve the safety, efficiency, and reliability of intercity passenger rail and freight rail, a dramatic increase from past funding levels. For the first time, IIJA also provided \$600 million annually in dedicated funding for the Grade Crossing Elimination Program to help state and local communities close grade-level crossings. These projects will dramatically improve safety, reduce emissions, and connect communities. Other IIJA grant programs, including Infrastructure for Rebuilding America (INFRA) and Rebuilding American Infrastructure with Sustainability and Equity (RAISE), will allow state and local governments working with freight railroads and other partners to fund major projects with regional and national impacts.

For example, last year the Illinois Department of Transportation and the Chicago Region Environmental & Transportation Efficiency Program (CREATE), of which AAR is a proud partner, received a \$70 million INFRA grant for the Ogden Junction project in Chicago to replace, repair, or eliminate 16, 100-year-old bridges along a two mile stretch of freight rail lines. By modernizing these tracks, CREATE will increase safety, reduce delays for commuter rail, enhance the local community and businesses, and improve the flow of freight through the vitally important Chicago rail hub.

Because of railroads’ fuel efficiency, good-paying jobs, and strong ties to the communities in which they operate, the industry is in a unique position to achieve the broader goals of IIJA. While IIJA does address some permitting issues to ensure the money goes as far as possible while maintaining environmental protections, further permitting reforms would be beneficial.<sup>10</sup> We look forward to working with Congress on its continued implementation.

#### *Maintaining Balanced Regulation*

Throughout history, the degree of government control over rail operations has tremendously impacted the industry’s vibrancy and effectiveness. Prior to the enact-

<sup>8</sup>For additional information on ATI and other safety-enhancing technology, please visit: <https://www.aar.org/wp-content/uploads/2022/06/AAR-Technology-Fact-Sheet.pdf>

<sup>9</sup>For additional information on the Crew Size NPRM, please visit <https://www.aar.org/wp-content/uploads/2020/08/AAR-Crew-Size-Fact-Sheet.pdf>

<sup>10</sup>For more information on permitting, please visit <https://www.aar.org/article/freight-rail-environmental-permitting-policies/>

ment of the Staggers Act of 1980, excessive regulation was preventing railroads from earning adequate revenues and competing effectively in the freight transportation market. Congress recognized the need for a new regulatory scheme that allowed railroads to establish their routes and tailor rates based on market conditions and demand. Importantly, however, the Staggers Act did not completely deregulate railroads. The STB, the federal agency that regulates rail rates and service, retained authority to set maximum rates if a railroad was found to have “market dominance” over a particular movement and the rate was determined to be unreasonable. The STB was also permitted to take other actions if a railroad engages in anti-competitive behavior. Effectively, under today’s balanced regulations, the market is allowed to govern, unless and until it is determined to have failed.

Since Staggers, rail spending has risen dramatically as well as rail income, leading, in turn, to greater efficiency, improved safety, better service, and sharply lower average rates (Figures 9 and 10). These improvements are exactly what Congress hoped for when it passed Staggers. Today, railroads’ survival is not in doubt, but that doesn’t mean the need for balanced regulation has gone away. America’s railroads are healthy precisely because of the regulatory balance that Staggers ushered in.

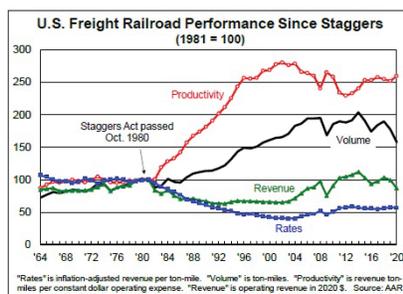


Figure 9

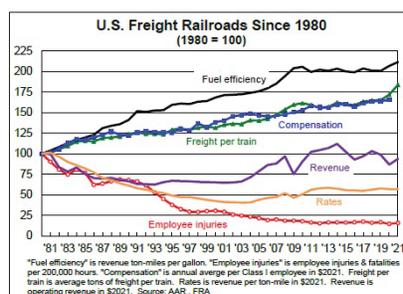


Figure 10

Unfortunately, some rail industry critics want policymakers to re-impose excessive regulations and price controls on railroads. The STB is currently considering several proposals that would do just that. If this happened, the rail industry would not disappear overnight, but over time its physical plant would deteriorate, needed new capacity would not be added, and rail service would become slower, less responsive, and less reliable. Of course, the STB does, and should, play a productive role in adjudicating disputes between shippers and railroads, but excessive government intervention into private activity only risks sending the industry backwards.<sup>11</sup>

#### CONCLUSION

Railroads are bullish on 2023 and beyond. In the long term, demand for freight transportation will grow as our economy and population grow, and railroads are the most efficient, cost-effective, and safest way to meet much of this growing demand. Railroads reduce emissions and the overall environmental impact of transportation; provide good-paying, stable careers to millions of Americans; enable domestic manufacturing, agriculture, and other industries to continue expanding; and enhance America’s competitiveness in the global economy. In such an interconnected supply chain, every segment must be robust. Only through working together can we maximize supply chain performance and keep our economy moving.

Railroads want to build on these successes, and they remain ready and willing partners with this Committee, the STB, and other policymakers to achieve our shared goals of a robust, strong U.S. rail network long into the future.

Mr. GRAVES OF MISSOURI. Thank you very much. I appreciate it, Mr. Jefferies.

And now I am going to yield to Ms. Hoyle for introduction of our next witness.

<sup>11</sup>For additional information on the Staggers Act and the STB, please visit <https://www.aar.org/campaigns/economic-regulation-101/>

Ms. HOYLE OF OREGON. Thank you, Chairman Graves and Ranking Member Larsen, for the opportunity to introduce Jeff Firth from Hamilton Construction, one of Oregon's largest construction firms. He has deep ties in southwest Oregon, and we both live in Springfield, Oregon. He is here today on behalf of the Associated General Contractors of America. And I am delighted to have this opportunity to introduce him to you, Mr. Chairman, and to the rest of my colleagues.

Mr. GRAVES OF MISSOURI. Thank you.

Mr. Firth, you are recognized.

**TESTIMONY OF JEFF FIRTH, VICE PRESIDENT, HAMILTON CONSTRUCTION COMPANY, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA**

Mr. FIRTH. Good morning, Chairman Graves, Ranking Member Larsen, and members of the Committee on Transportation and Infrastructure. Thank you for inviting me to testify on this vitally important topic.

Again, my name is Jeff Firth, and I am the vice president of Hamilton Construction Company, and a board member of the Associated General Contractors of America, or AGC, where I serve as vice chair of the Highway and Transportation Division.

AGC is a leading association in the construction industry, representing more than 27,000 firms, including America's leading general contractors and specialty contracting firms, many of which are small businesses. AGC contractors are both union and open shop, and are engaged in the construction of our Nation's infrastructure, including roads, bridges, airports, transit systems, levees and dams, and more. In 2020, 91 percent of firms within the construction industry had 20 or fewer employees.

Hamilton Construction Company has been building bridges and highways as a heavy civil contractor since 1939. Hamilton has partnered with owners to deliver numerous award-winning, complex bridges, highways, dams, and other critical infrastructure projects. We have four divisions that operate throughout the West.

In my testimony today, I will discuss the status of the construction industry, including the challenges that lie ahead for rebuilding our Nation's infrastructure.

The Infrastructure Investment and Jobs Act, or IIJA, represents the most significant infusion of investment, including over \$350 billion dedicated to roads and bridges in our infrastructure since the enactment of the Interstate Highway System since 1950. However, inflation and supply chain constraints have threatened the success of the IIJA. And in my testimony today, I will discuss the challenges that have emerged from the industry even as some conditions improve.

Infrastructure project costs continue to climb amid rising construction materials prices and shortages. Material prices have increased and doubled or even tripled in some cases. The construction industry is facing material challenges that reach far and wide. In fact, a recent survey of AGC members found that 93 percent of construction companies are experiencing long lead times and/or allocations—less-than-full shipments—for construction materials. Supply chain disruptions from the pandemic have inflated the cost

of construction materials and made project delivery schedules and product availability more uncertain.

Construction firms, in situations where they are able to, will pass along the rising materials prices in order to remain successful. Unfortunately, the lead time in bidding these projects is so long that they are unable to predict the availability and price of some of these materials. We are experiencing an unprecedented burden with bidding procurement of new projects. As you can imagine, the impacts are especially devastating to small and DBE construction firms that lack the resources to absorb these unexpected costs.

The industry is also facing uncertainty around Buy America requirements included in the IIJA, which expands domestic sourcing requirements to all construction materials on federally assisted projects, such as affordable housing, drinking water, transportation projects, and more. I want to be clear, AGC supports sensible efforts to incentivize the growth of domestic manufacturing capacity to restore balance to the supply chain.

There is still significant confusion among industry, Federal, State, and local agencies regarding the difference between a construction material and a manufactured product and what manufacturing processes must occur domestically for construction materials.

There is also heartburn within the construction industry about needing a Buy America waiver in the future and the low likelihood in it being granted based on history. To make the waiver process even more problematic, because of an Executive order, Federal agencies must submit waivers for items not made in America to the Office of Management and Budget. At Hamilton Construction, this new requirement has caused us confusion. Owners should have a better handle on what is being specified on their projects and ensure that these materials are available to meet Buy America requirements. Most owners simply pass the onus on to the contractor and stipulate that they will not pay the contractor until they find something that works. As you can imagine, this is hard to do if there is nothing out there that qualifies as an equivalent.

While the IIJA provides a historic level of funding in our infrastructure, we are still recovering from a global pandemic, addressing a supply chain crisis, and implementing new Federal requirements that were part of the IIJA, which has created challenges for those of us tasked with rebuilding our infrastructure. But let me be clear, if Congress did not pass the IIJA, the impacts on transportation contractors would be have been significant with likely a cut of 20 to 30 percent in projects by the States.

I thank the committee for the opportunity to testify today. I look forward to answering any questions that you may have.

[Mr. Firth's prepared statement follows:]

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**Prepared Statement of Jeff Firth, Vice President, Hamilton Construction Company, on behalf of the Associated General Contractors of America**

I. INTRODUCTION

Chairman Graves, Ranking Member Larsen, and members of the Committee on Transportation and Infrastructure, thank you for inviting me to testify on this vitally important topic. My name is Jeff Firth, and I am the Vice President of Ham-

ilton Construction Company and a board member of the Associated General Contractors of America (AGC) where I serve as Vice Chair of the Highways and Transportation Division.

AGC is the leading association in the construction industry representing more than 27,000 firms, including America's leading general contractors and specialty-contracting firms, many of which are small businesses. Many of the nation's service providers and suppliers are also associated with AGC through a nationwide network of chapters. AGC contractors are both union and open shop and are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more. In 2020, 91% of firms within the construction industry had 20 or fewer employees.<sup>1</sup>

Hamilton Construction Co. (Hamilton) has been building bridges and highways as a heavy civil contractor since 1939. Hamilton has partnered with owners to deliver numerous award-winning, complex bridges, highways, dams, and other critical infrastructure projects. Hamilton has four divisions and operates throughout the West. The divisional organization allows Hamilton to better serve our clients and employees from local offices in Oregon, Washington, and Alaska.

In my testimony today, I will discuss the status of the construction industry including the challenges that lie ahead for rebuilding our nation's infrastructure. The Infrastructure Investment and Jobs Act (IIJA) represents the most significant infusion of investment, including over \$350 billion dedicated to roads and bridges, in our infrastructure since the enactment of the Interstate Highway System in the mid-1950's. However, inflation and supply chain constraints have threatened the success of the IIJA. In my testimony today I will discuss the challenges that have emerged for the industry, even as some conditions improve.

## II. PROVIDE FLEXIBILITY FOR STATES AND CONSTRUCTION COMPANIES

### *States Need Flexibility to Meet their Transportation Needs*

AGC believes that the Federal Highway Administration (FHWA) must continue to provide state and local governments with the flexibility to address and prioritize their unique transportation needs as Congress intends. Secretary Buttigieg recently<sup>2</sup> stated, "No one understands a community's needs better than those who live there," and AGC could not agree more. As each area of our country is diverse and unique, so are the transportation needs of each community. When standardized transportation solutions do not work in a community, too often the contractor gets blamed despite often not being involved in project selection or the design of a project.

Historically, the federal-aid highway program has been federally funded and state administered with over 90 percent of the highway funding going to states via formula. This ensures maximum flexibility for states to address their transportation needs and allows them to "flex" funding between programs when necessary. We ask that Congress continue to prioritize formula funds and state flexibility in future surface transportation reauthorizations.

FHWA released a guidance memo highlighting, among other things, that states should focus exclusively on maintenance and repair work on existing roadways before building more or new roads.<sup>3</sup> This memo has caused confusion with state DOTs about the mismatch between this guidance and the lack of corresponding requirements for such measures by the IIJA. This policy, which was rejected by Congress in IIJA negotiations, paints a false narrative based upon FHWA's own data which states that 80% of roadway construction projects already repair existing roads and bridges.<sup>4</sup> States are already fixing it first, thanks to the policies like performance management requirements—put in place by Congress. Our nation's interstate system was built and designed over 50 years ago, and it is past time that states modernize them to meet the current needs of the cities and populations they serve. Flexibility to add new capacity to meet these changed needs is crucial.

<sup>1</sup> <https://data.census.gov/table?q=CB2000CBP:+All+Sectors:+County+Business+Patterns,+including+ZIP+Code+Business+Patterns,+by+Legal+Form+of+Organization+and+Employment+Size+Class+for+the+U.S.,+States,+and+Selected+Geographies:+2020>

<sup>2</sup> <https://content.govdelivery.com/accounts/USDOT/bulletins/330d4ed>

<sup>3</sup> [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building\\_a\\_better\\_america-policy\\_framework.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building_a_better_america-policy_framework.cfm)

<sup>4</sup> See Appendix Figure 1 and Figure 2

AGC led a coalition<sup>5</sup> effort requesting that FHWA rescind the “Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America” memorandum issued on December 16, 2021. The recent December 15 U.S. Government Accountability Office determination that this memo is a rule under the Administrative Procedures Act (APA) further underscores two of our concerns.<sup>6</sup> First, if the memo articulated a valid rule, the regulated community—including state and local transportation agencies—must comply with its parameters. Second, formulation of the rule must comply with the APA, requiring public notice and comment which did not occur in this case. If FHWA wishes to prioritize certain types of programmatic policy changes, then the agency should work with Congress to legislate such changes or follow the notice and comment rulemaking process as required under the APA. Here, FHWA did neither.

Putting policy priorities aside, AGC is also concerned about the precedent that this policy memo sets. We fear the potential policies that future administrations could prioritize without undertaking a formal notice and comment rulemaking.

### III. CHALLENGES TO REBUILDING THE NATION’S INFRASTRUCTURE

#### *Supply Chain Constraints*

Infrastructure project costs continue to climb amid rising construction materials prices and shortages. Material price increases have doubled or even tripled in some cases<sup>7</sup>. The construction industry is facing material challenges that reach far and wide. In fact, a recent survey of AGC members found that 93 percent of construction companies are experiencing long lead times and/or allocations (less-than-full shipments) for construction materials.<sup>8</sup> Supply chain disruptions from the pandemic have inflated the cost of construction materials and made project delivery schedules and product availability more uncertain.

Infrastructure projects across the country have been delayed and more could be jeopardized. Construction firms, in situations where they are able to, will pass along the rising materials prices in order to remain successful. Unfortunately, the lead time in bidding these projects is so long that they are unable to predict the availability and price of some of these materials. We are experiencing an unprecedented burden with bidding and procurement of new projects. Specifically, some of these challenges for Hamilton include:

- *Steel Pricing*—We receive a price the day of bid but are required to let the supplier know anywhere from that same day up to one week if we will place an order. As a result, we have to decide in an incredibly short time period whether we will buy materials for a project that we do not know if we will be awarded, placing significant risk on our business.
- *Concrete Shortages*—Suppliers have been putting us on a weekly allocation (or rationing) for concrete. This is a challenge when you might have a 300+ cubic yard pour, can only get 50–75 cubic yards and have a set schedule to meet.
- *Lattice Boom Crawler Cranes*—The supplier we use only has six available on the west coast.
- *Other Construction Equipment*—The forecast for air compressors, light plants, generators, manlifts, forklifts is 40–50 weeks at a minimum.

Companies are also unable to foresee things like world events that cause a spike in oil prices or soaring inflation and therefore, in some instances, are forced to absorb these increases because there is no price adjustment clause available to them. At Hamilton Construction we have had experiences that vary state to state:

- Some of our owners have fuel adjustment clauses but only for certain scope of work performed on the project.
- Some owners have adjustment clauses for steel and asphalt, however, only for certain scopes of work within the project and the adjustment clauses do not cover all materials that will be used on a project.
- Some owners that we work with do not have any type of adjustment clauses at all.
- At Hamilton Construction fuel escalations were helpful, but not enough. Our fuel bill for the year overran close to \$1 million dollars from what was budgeted.

<sup>5</sup> <https://www.agc.org/sites/default/files/Files/Govt%20Regulations%20and%20Executive%20Orders/Coalition%20Letter%20-%20FHWA%20Memo%201.18.2023.pdf>

<sup>6</sup> <https://www.gao.gov/products/b-334032>

<sup>7</sup> [https://www.agc.org/sites/default/files/users/user21902/Construction%20Inflation%20Alert%20Cover\\_Jul2022\\_V4.pdf](https://www.agc.org/sites/default/files/users/user21902/Construction%20Inflation%20Alert%20Cover_Jul2022_V4.pdf)

<sup>8</sup> <https://www.agc.org/sites/default/files/users/user33405/Buy%20America/2022%20Materials%20Survey%20Results%20Data.pdf>

While contractors are in the business of managing risk, the events and circumstances of the last two years have led to such unparalleled unpredictability in the supply chain and market that contracting firms of all sizes are at greater risk now than in recent history of business failure. As you can imagine the impacts are especially devastating to small and DBE construction firms that lack the resources to absorb these unexpected costs.

*Implementation of the Build America, Buy America Act (BABAA)*

The industry is also facing new uncertainty around Buy America requirements. I want to be clear, AGC supports sensible efforts to incentivize the growth of America's domestic manufacturing capacity to restore balance to the supply chain. As you know, the IIJA included the Build America, Buy America Act (BABAA) which expands domestic sourcing requirements to all construction materials on federally assisted projects such as affordable housing, drinking water, transportation projects and more.

The Office of Management & Budget (OMB), who oversees implementation of BABAA, issued preliminary guidance defining construction materials on April 18, 2022, and told agencies to include BABAA requirements in all new contracts on May 14. OMB issued these "rules" before conducting significant research on the supply chain, as it put forth a request for information within the guidance and has yet to issue final guidance. The Department of Transportation (U.S. DOT) initially issued a transitional waiver for six months which has since expired. We believe that U.S. DOT should issue another transitional waiver of six months to a year, or until the Department can provide clarifying guidance and ensure there is adequate time for public owners and contractors to understand these new requirements.

There is still significant confusion among industry, federal, state and local agencies remain regarding the difference between a construction material and a manufactured product and what manufacturing processes must occur domestically for construction materials. For example, there is still no guidance from OMB or U.S. DOT about asphalt and concrete which has created confusion among industry and state DOT's about whether they are exempt from these new requirements—even though the statute is clear. To address this issue, U.S. DOT must identify a specific list of which construction materials will have to be Buy America compliant and which materials will be considered a manufactured product. To date, they have not done this.

In addition, OMB has also added new uncertainty for the construction industry. For example, their April 18, 2022, Memo<sup>9</sup> requires the Federal Highway Administration (FHWA) to reevaluate its existing 1983 manufactured products waiver. To date, FHWA has not issued a request for comment on such waiver.

There is also heartburn within the construction industry about needing a Buy America waiver in the future and the low likelihood in being granted one based on history. To make the waiver process even more problematic, because of an executive order, federal agencies must submit waivers for items not made in America to OMB. They assure us though that OMB must approve or deny the waiver within 15 days. However, this does not detail when U.S. DOT or another agency received the waiver request first and only starts the 15-day deadline when the agency actually transmits the waiver request to OMB. We ask that the Committee conduct thorough oversight to ensure that the waiver process is transparent and does not get caught up in politics of the White House and OMB.

At Hamilton Construction this new requirement has caused confusion. Owners should have a better handle on what is being specified on their projects and ensure that these materials are available to meet Buy America requirements. Most owners simply pass the onus onto the contractor, and then stipulate that they will not pay the contractor until they find something that works. As you can imagine, this is hard to do if there is nothing that qualifies as an equivalent.

We have heard that one DOT is going through and creating a product list that meets the new Buy America requirements and distributing it amongst their contractors. As contractors, we only bid and build what is on the plans, meaning substitutions can also be very difficult to obtain.

A more responsible way to implement these new requirements would be for OMB and U.S. DOT to implement them on a product-by-product basis, after identifying manufacturing capacity. However, it appears as though they are choosing to charge full speed ahead amidst supply chain woes—like long lead times and material allocations.

One thing FHWA has done is a Request for Information on the availability of Buy America compliant electric vehicle (EV) charges and then subsequently a proposed

<sup>9</sup><https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>

waiver for them. AGC offered support for such waiver.<sup>10</sup> However, it is disappointing that the agency did not undertake outreach and research to a similar degree of rigor on other manufactured products and construction materials subject to BABAA.<sup>11</sup> While this waiver will address the challenges present with EV charging stations, the manufactured product is merely one example of a much larger industry-wide problem when it comes to meeting these new requirements. Put nicely, implementation of the new Buy America requirements is off to a rocky start and the construction industry is very concerned and confused.

#### *Greenhouse Gas Performance Measure*

Last summer, FHWA proposed a rule to establish a greenhouse gas performance measure. During debate of the IIJA and prior surface transportation laws, Congress considered proposals that would provide FHWA with the authority to create a performance measure on greenhouse gas emissions but ultimately rejected them. AGC believes that this greenhouse gas performance measure would be a one-size-fits-all mandate that would limit a state's ability to choose transportation projects that fit its unique needs. We believe FHWA should follow congressional intent and refrain from reviving policy ideas that Congress considered and ultimately rejected.

A greenhouse gas performance measure will limit a state's options to connect people to jobs, healthcare, and education. The transportation needs faced by Americans living in urban areas are not the same as those living in rural parts of the country. Requiring New York to invest in the New York City subway rather than a roadway project might work for the transportation needs of their state. However, factors like climate and population density may limit some states' transportation options.

If the Administration insists on moving forward with this rulemaking, AGC believes that they should provide an exemption for low-population density states and focus on the states with the highest greenhouse gas emissions. Likewise, we believe that FHWA should not penalize states for not meeting their greenhouse gas emissions targets.

#### *Waters of the United States (WOTUS) Rule*

The Clean Water Act (CWA) grants the U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) jurisdiction over "navigable waters," defined in the act as "Waters of the United States" (WOTUS) without further clarification. Both the federal agencies and the courts have long struggled to define WOTUS: establishing which waters are regulated by the federal government and which fall under the jurisdiction of state and local governments for protection. Federal jurisdiction affects all CWA programs (not just dredge and fill/wetlands permits) and determines when a construction site must obtain a federal permit.

The administration released its new WOTUS rule despite the fact the U.S. Supreme Court is currently weighing the scope of the Clean Water Act as part of the *Sackett v. EPA* case. A ruling in that case could render elements of the new rule irrelevant, adding further regulatory confusion for a large section of the economy. AGC urged the Biden Administration to wait for the Supreme Court to issue a ruling on the Sackett case before proceeding. We also urged the administration to focus its regulatory efforts on implementing the environmental streamlining provisions that were included in the IIJA the president signed into law over a year ago.

The construction industry invests a significant amount of time and cost in compliance with the Clean Water Act and to avoid or reduce potential impacts on the environment. The new rule is the sixth time the requirements have changed in seven years, compounding the existing uncertainty in an area of law that can not only significantly delay and increase costs on projects but also bring criminal as well as civil penalties. AGC would support any congressional efforts to halt implementation of this new rule, especially given how any Supreme Court decision could lead to the seventh change to the rule in just as many years.

#### *Disadvantaged Business Enterprise (DBE) Program*

On July 21, 2022, the U.S. Department of Transportation announced a notice of proposed rulemaking on the Disadvantaged Business Enterprise (DBE) Program. AGC represents DBE and non-DBE firms and has identified many areas of agree-

<sup>10</sup> <https://www.regulations.gov/comment/FHWA-2022-0023-0037>

<sup>11</sup> On November 24, 2021—14 days after President Biden signed the Infrastructure Investment and Jobs Act (IIJA) into law—USDOT and the Department of Energy published an RFI seeking comments within 47 days to discern whether EV charging stations could meet BABAA requirements. FHWA, on the other hand, issued an RFI to help understand the possible impacts of BABAA requirements on the vast field of construction materials utilized on federal-aid highway projects on July 28, 2022—225 days after IIJA enactment—and sought comments within 21 days.

ment on how to improve the DBE program. For example, we are pleased that the Department is proposing to increase the personal net worth cap and exclude retirement assets from the calculation. DBE firms should be able to grow without punishing the owner of the company for planning for retirement. Likewise, we are pleased that the Department is taking steps to streamline the interstate certification process. This will enable these small companies to focus more of their time and resources on running their construction company and not forcing them to spend time on a duplicative paperwork process.

AGC supports better alignment of the DBE program with the federal small business program under the Small Business Act. However, AGC warns U.S. DOT against a wholesale substitution of the existing rules for DBE size determination with that of the U.S. Small Business Administration's (SBA) without careful consideration and study.

AGC believes that U.S. DOT should ensure that DBE availability and capacity in an area does not diminish, which would undermine efforts to achieve programmatic goals. That is why AGC supports aligning the DBE statutory size standard—currently capped at \$28.48 million gross annual revenue—with NAICS code 237310 (Highway, Street, and Bridge Construction) that sets a \$45 million cap and is revised for industry trends and inflation at least every five years by the SBA.

And, rather than limiting DBEs to certain sub-sizes as specialty contractors—as NAICS codes for specialty contractors are generally capped at a \$19 million gross annual revenue threshold—AGC supports maintaining just the one singular code and its accompanying threshold to avoid administrative confusion that could lead to DBEs being prematurely removed from the program. Also, DBE contractors can work as prime contractors on some transportation construction contracts and specialty contractors (i.e., subcontractors) on others. That flexibility maximizes their opportunity to bid on and win federally assisted transportation construction contracts.

Such a change is not unprecedented. In fact, Congress enacted this approach in section 150 of the Federal Aviation Administration Act of 2018 for the mode's DBE program.

As it stands, however, NAICS codes for the specialty construction sector were designed for vertical building construction, not transportation construction contractors. These codes do not account for the fact that in transportation construction, jobsites can span many miles and require more heavy equipment than for constructing a building. For example, to face a cap of \$19 million can be especially challenging for a structural steel contractor that specializes in bridge work, as steel remains at elevated prices, is a ubiquitous material in bridges and whose placement requires significant investment in heavy equipment.

Instead of allowing room for DBE contractors to grow, the program is further handicapping their success. Instead of making it easier for prime contractors to utilize specialty DBE firms, it is making it more difficult. Finally, it is making it harder for states to meet or even exceed their DBE goals by limiting the work these DBE firms are able to perform. AGC looks forward to working with Congress and U.S. DOT to address the unintended consequences of the use of NAICS codes in transportation construction.

At Hamilton we have had very positive experiences in working with DBEs. The main challenge we see is that the pool of DBE's is not growing. As a prime contractor, we want to have options available. We also want to ensure that when the time comes to perform the work, the DBE has the capacity to perform the job and isn't trying to work on 10 jobs concurrently with limited resources.

We utilize DBEs for various types of jobs. For example, one good experience with a DBE firm was on a Washington State DOT project. They performed the traffic control for us and did a great job. It was one of the more difficult jobsite conditions where there are 3–5 lanes of traffic in each direction, on/off-ramps to contend with, and also challenges with the general public—not paying attention in work zones, driving too fast, not focusing on the road, etc.

#### *Facilitate Efficient Project Delivery*

AGC believes a great way to maximize the investment in IJJA would be to implement the environmental review and permitting reforms that were mandated in the bill. The complicated operations of these current laws and the intersection of their requirements can delay projects that would improve the overall safety and efficiency of the surface transportation system. By implementing these provisions, we believe the costs associated with delivering projects will be reduced without jeopardizing environmental protections.

Specifically, we ask that the administration implement the provisions that would:

- Codify the One Federal Decision policy;

- Allow for utility relocation in the right of way prior to the National Environmental Policy Act (NEPA) review being completed; and
- Extend the time period for a state to assume the responsibility for small projects, that have little or no environmental impact, from a term of not more than three years, to a term of five years.

AGC also has concerns about recent changes to the National Environmental Policy Act (NEPA) in the Council on Environmental Quality's (CEQ) Phase I rule-making. These changes add bureaucratic steps in an already onerous and slow process, require more time-consuming analyses, increase litigation risk for project decisions, and encourage agencies to impose requirements that go beyond CEQ regulations and would slow agency decision-making and discourage the transformational investments needed across the economy.

Federal agencies are not just making changes to NEPA, they are systematically reversing all streamlining reforms from recent years as well as introducing additional requirements that will delay projects. This can be seen in the major permitting programs such as Clean Water Act section 404 permitting, section 401 water quality certifications, threatened and endangered species, and migratory birds.

The promises to deliver timely and sorely needed infrastructure under the IIJA and the Inflation Reduction Act will be significantly challenged if projects are delayed and, in turn, face steep cost increases that block their construction. These delays will make it harder to achieve climate change goals, to make infrastructure more resilient, and to better prepare and protect communities from natural disasters, especially disadvantaged communities.

#### *Buy Clean*

Under Executive Order 14057 and provisions of the Inflation Reduction Act, federal agencies are looking at “Buy Clean” programs that would force material/product choices based on embodied carbon using Environmental Product Declarations (EPD). EPDs were initiated by industry to present general information about the environmental attributes of a product, including the carbon emissions associated with its development.

While EPDs are a tool for measuring embodied carbon, they can be varied in their approach, do not provide a full life cycle assessment, and are not universal. In addition, EPDs have limited functionality for making or comparing important design choices (such as for safety or performance) or calculating the embodied carbon of an entire infrastructure project—and/or comparing it to another project.

Buy Clean programs are new and have not been fully implemented even in the limited states—including California—that have begun to utilize them. Their impact on the supply chain is unknown. As is whether they will require more staff to administer and change traditional roles within the infrastructure development team—possibly resulting in new professional services or roles for the general contractor (e.g., a new environmental review akin to determining how to actually build a project) and introducing risk.

AGC asks that Congress and the Administration allow for an appropriate transition time to these new requirements and examine the impacts that these new requirements could have on small and DBE contractors and suppliers. The uncertainties associated with Buy Clean programs could have serious implications if approached in a rushed/haphazard manner. In addition, we ask that they work with industry to implement these requirements. Recognizing the proactive role that industry has played in the development and adoption of EPDs, AGC encourages market-based incentives associated with embodied carbon. Furthermore, the government should continue to include industry in the EPD process moving forward, reward private sector innovation, and recognize the importance of consensus-based processes for industry standards.

## IV. SUPPORT THE CONSTRUCTION WORKFORCE

### *State of the Construction Workforce*

The construction industry's labor shortages remain severe with most construction firms expecting labor conditions to remain tight. Despite firms increasing pay and benefits, the workforce shortage continues. A 2022 AGC survey found 93 percent of construction firms report they have open positions they are trying to fill. Among those firms, 91 percent are having trouble filling at least some of those positions—particularly among the craft workforce that performs the bulk of onsite construction work. While finding qualified workers remains a challenge, the survey does show that contractors are optimistic, particularly with road, bridge, and transportation construction.

The industry is facing the effects of decades of policies directing students to attend four-year institutions as the only career option. About 21 percent of all total federal education funding goes to career or workforce education with the majority going to traditional four-year colleges.<sup>12</sup> That is why AGC supports increased funding for Career and Technical Education funding (Perkins Act.). Perkins is the primary federal program for developing and supporting career and technical education programs for secondary and post-secondary students. Exposing younger individuals to construction skills and careers is critical. However, these programs, especially construction focused ones, are expensive to operate and administer for local schools. And these programs face rising inflationary pressure and lingering pandemic impacts.

*The Jumpstart Our Businesses by Supporting Students (JOBS) Act of 2021*

Last Congress legislation was introduced, Jumpstart Our Businesses by Supporting Students (JOBS) Act of 2021, which is one legislative initiative that could help make a tangible impact on this problem. This bill would expand Pell Grants to all individuals seeking a career. These grants provide billions of federal aid to over seven million students in post-secondary programs of at least a semester in length. Currently, Pell Grant eligible programs must be a full-time semester in length which has largely limited student's ability to use Pell Grants to pursue short-term career education programs. Emphasizing competency and value of a program over instruction time metrics would allow for a host of craft worker industry-recognized certificate programs to become eligible for federal needs-based aid. I know many of you on this Committee have cosponsored this legislation in the past and we thank you for your support.

#### V. CONCLUSION

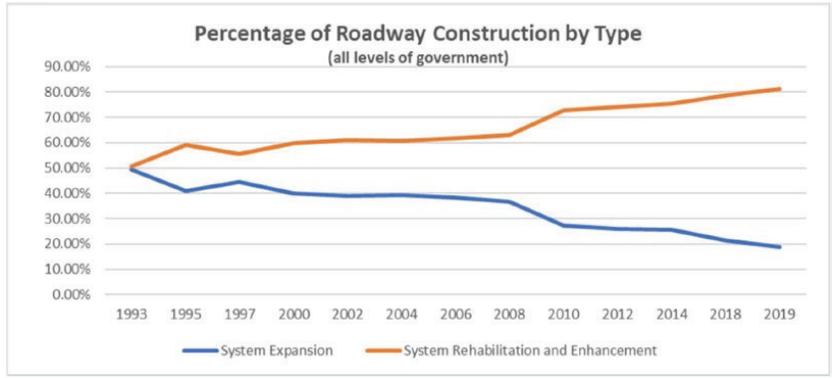
The IIJA provides market opportunities for transportation contractors, heavy contractors, building contractors and utility contractors. And most importantly, it demonstrates to our existing and future workforce that there is sustainable work in the years to come. This historic level of funding in our infrastructure when combined with recovering from a global pandemic, addressing a supply chain crisis, and implementing new federal requirements that were a part of the IIJA has created challenges for those of us tasked with rebuilding our infrastructure. But let me be clear, if Congress did not pass the IIJA, the impacts on transportation contractors would have been significant with likely a cut of 20–30 percent in projects by the states. I thank the Committee for the opportunity to testify today. I appreciate its continued efforts to help improve our nation's infrastructure and enact policies that create good paying jobs in America. I look forward to answering any questions you may have.

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<sup>12</sup> <https://opportunityamericaonline.org/>

APPENDIX

Figure 1<sup>13</sup>



<sup>13</sup>(<https://www.transit.dot.gov/research-innovation/status-nations-highways-bridges-and-transit-condition-and-performance>  
<https://www.fhwa.dot.gov/policyinformation/statistics/2018/fa10.cfm>  
<https://www.fhwa.dot.gov/policyinformation/statistics/2019/fa10.cfm>)

Figure 2<sup>14</sup>  
(Spending in Thousands)

STATE	New Capacity (New Construction, Added Capacity, Major Widen, Minor Widen, New Bridge)	Total Spending	New Capacity as Percent of Total
Alabama	\$207,881	\$1,475,119	14.09%
Alaska	\$111,115	\$764,100	14.54%
Arizona	\$974,995	\$1,448,808	67.30%
Arkansas	\$273,295	\$924,723	29.55%
California	\$136,628	\$4,589,484	2.98%
Colorado	\$132,782	\$1,156,752	11.48%
Connecticut	\$63,088	\$924,960	6.82%
Delaware	\$72,776	\$586,608	12.41%
Dist. of Col.	\$0	\$456,835	0.00%
Florida	\$1,664,800	\$6,683,645	24.91%
Georgia	\$460,056	\$1,787,653	25.74%
Hawaii	\$88,266	\$239,670	36.83%
Idaho	\$21,725	\$660,149	3.29%
Illinois	\$320,062	\$3,186,325	10.04%
Indiana	\$329,653	\$1,552,336	21.24%
Iowa	\$353,418	\$1,009,846	35.00%
Kansas	\$111,455	\$557,572	19.99%
Kentucky	\$509,449	\$1,568,834	32.47%
Louisiana	\$264,211	\$887,562	29.77%
Maine	\$4,508	\$566,788	0.80%
Maryland	\$271,139	\$1,586,175	17.09%
Massachusetts	\$5,139	\$926,822	0.55%
Michigan	\$51,378	\$3,109,167	1.65%
Minnesota	\$165,889	\$1,191,844	13.92%
Mississippi	\$161,918	\$878,062	18.44%
Missouri	\$55,352	\$904,598	6.12%
Montana	\$60,821	\$524,006	11.61%
Nebraska	\$12,704	\$838,786	1.51%
Nevada	\$343,017	\$688,263	49.84%
New Hampshire	\$55,658	\$270,456	20.58%
New Jersey	\$355,568	\$2,941,537	12.09%
New Mexico	\$79,321	\$430,734	18.42%
New York	\$214,189	\$4,457,620	4.81%
North Carolina	\$2,470,163	\$4,843,286	51.00%
North Dakota	\$10,643	\$423,023	2.52%
Ohio	\$204,264	\$2,284,656	8.94%
Oklahoma	\$129,939	\$1,448,763	8.97%
Oregon	\$153,614	\$1,015,338	15.13%
Pennsylvania	\$309,475	\$4,007,533	7.72%
Rhode Island	\$0	\$46,702	0.00%
South Carolina	\$60,002	\$1,901,504	3.16%
South Dakota	\$27,635	\$310,987	8.89%
Tennessee	\$435,099	\$1,246,254	34.91%
Texas	\$3,056,287	\$9,843,960	31.05%
Utah	\$460,689	\$980,391	46.99%
Vermont	\$16,347	\$251,802	6.49%
Virginia	\$446,957	\$1,527,274	29.27%
Washington	\$441,481	\$2,084,743	21.18%
West Virginia	\$318,833	\$908,893	35.08%
Wisconsin	\$631,230	\$1,575,772	40.06%
Wyoming	\$34,647	\$368,914	9.39%
<b>Total</b>	<b>17,139,561</b>	<b>84,845,634</b>	<b>20.20%</b>

<sup>14</sup> <https://www.fhwa.dot.gov/policyinformation/statistics/2019/sf12.cfm>

Mr. GRAVES OF MISSOURI. Thank you, Mr. Firth.

Now we will move to Mr. Roger Guenther—did I get that right?

Mr. GUENTHER. Yes, Chairman, that is correct.

Mr. GRAVES OF MISSOURI. The executive director of Port Houston. So, you are recognized.

**TESTIMONY OF ROGER GUENTHER, EXECUTIVE DIRECTOR,  
PORT HOUSTON**

Mr. GUENTHER. Thank you.

Good morning, Chairman Graves and Ranking Member Larsen and members of the committee, it is a pleasure to be with you today. And thank you, Chairman, for taking the time to come and see our port late last summer to see what it is all about.

Again, my name is Roger Guenther, and I am the executive director of Port Houston. The Houston Ship Channel serves the largest port in the Nation, handling more waterborne tonnage cargo than any other port in the United States, either by annual tonnage as well as the number of ships, by a wide margin. Our ship channel sustains more than 3.2 million jobs each year and more than \$800 billion in annual economic impact for the United States.

Now, I can, and I will speak to the challenges and opportunities specifically about Port Houston. I don't speak for other ports, but I am quite sure there are similar issues across the Nation.

Over the past 2 years, Houston has not been immune to the challenges of a global supply chain that has been overwhelmed. Our strong partnerships with labor and industry played, and continue to play, a critical role in our ability to push cargo through our terminals and accommodate the increase in cargo share the gulf continues to experience.

Strained by unprecedented demand, we have seen firsthand how critical each logistical segment of the supply chain is for the efficient movement of freight. And I can tell you, the seaports are one of those critical links.

As demand peaked, terminals became congested as import and export cargo were limited by many, many factors, and container facilities maxed out the capacity because they had no place to go and nowhere to take them, so, they sat on our terminals. To ensure a resilient supply chain and be prepared for future demands, investment must be made in our Nation's seaports where cargo continues to rapidly grow, and where private investments are being made near ports, in distribution centers for imported consumer goods and for manufactured goods that are exported, like petrochemical products and agricultural commodities of the like and, again, exported globally. As Congress provides money for infrastructure, those resources should be focused on Federal assets—the roads, the rails, the waterways—and perhaps even nearby inland depots that are critical to serving the fluidity of our Nation's ports.

I can give you an example of what is going on in Houston. In 2022, as the U.S. container imports were flat, Houston grew by 19 percent, and our exports were up 18 percent compared to an overall decline in exports of 5 percent. That is container imports and exports. To put it simply, Houston is an example that is exponentially outpacing cargo growth around the Nation, and we have had to

speed up many projects to try to accommodate this continued growth. And we cannot wait.

Ports are responsible for capital investments of their own terminals, such as wharf improvements and facilities to accommodate this growth. And we are making, as ports, those improvements. But it must be a Federal priority and a Federal obligation to make the capital investments on the waterside and landside in our channels and highway infrastructure that serve our Nation's ports to maintain the resiliency and fluidity going forward. Houston, and ports most critical to the Nation's economy, should be prioritized for infrastructure investments. If not, the Nation's busiest supply chains are vulnerable to disruption.

Another example: Houston Ship Channel has been underfunded by 50 to 60 percent for operations and maintenance dollars over the past several years, resulting in draft restrictions throughout our channel. We have received 18 cents per ton of cargo compared to the national average of 60 cents per ton of cargo. Houston serves as the gateway for the gulf for many global trade routes. Without an adequately maintained channel, vessels must leave cargo behind at the port of origin, which exacerbates the chain backups.

In Houston, we have been able to speed our deepening and widening project, Project 11, by prefunding the first segments of the dredging, shaving off already 5 to 7 years of a traditional timeline. Each day earlier that we deliver this project, which serves more than 200 waterfront facilities in our own port, it generates \$366,000 a day of economic impact to the Nation. In the past few years, the Federal Government has funded several other ports with Federal dollars to finish their dredging projects to completion. Adding the Port of Houston to that list would have enormous positive impact on the Nation's economy.

As I mentioned earlier, each segment of the supply chain, including the highways, rails, and those trades that support them, are necessary, as my colleagues here at the table have mentioned. And, Mr. Chairman and committee members, I applaud your commitment to funding solutions to ensure we learn from the past supply chain crisis and are well prepared to minimize the next.

Thank you for your time today, and I am happy to answer any questions that you have later.

[Mr. Guenther's prepared statement follows:]

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**Prepared Statement of Roger Guenther, Executive Director, Port Houston**

Good Morning Chairman Graves, Ranking Member Larsen, and members of the Committee. It is a pleasure to be with you today. My name is Roger Guenther and I am the Executive Director of Port Houston. The Houston Ship Channel serves the largest Port in the nation, handling more waterborne cargo than any other port in the United States in terms of both annual tonnage and number of vessel calls ... by far. Our ship channel sustains more than 3.2 million jobs and generates more than \$800 billion in annual economic impact for the United States.

I can, and I will speak to the challenges and opportunities specifically about Port Houston. I don't speak for other ports but I'm quite sure there are similar issues across the nation. Over the past two years, Houston has not been immune to the challenges of a global supply chain that has been overwhelmed. Our strong partnerships with labor and industry played, and continue to play, a critical role in our ability to push cargo through our terminals and accommodate the increase in cargo share our Gulf region continues to experience. Strained by unprecedented demand,

we have seen first-hand how critical each logistical segment along the supply chain has been to the efficient movement of goods. Seaports are one of those critical links.

As demand peaked, terminals became congested as import and export cargo were limited by many factors, and container facilities maxed out capacity because cargo had no place to go and did not move. To ensure a resilient supply chain and be prepared for future demands, investments must be made in our nation's seaports where cargo continues to rapidly grow, and where private investments are being made near ports, in distribution centers for imported consumer goods and for manufactured products and agriculture commodities that are exported globally. As Congress provides money for infrastructure, those resources should focus on federal assets—roads, rails, and waterways—or perhaps, inland depots, that are critical to serving the fluidity of our nation's ports.

I can give you an example of what is going on in Houston. In 2022, as the US container imports were flat, Houston grew 19%. Our exports were up 18% compared to the US overall declined 5%. To put it simply, Houston is an example that is exponentially outpacing the cargo growth around the rest of the nation, and we have had to speed up many projects to try to accommodate this continued growth. We cannot wait. Ports are responsible for capital investments of their own terminals, such as wharf improvements and facilities to accommodate growth. And we are making those investments. But, it must be a federal priority and federal obligation to make the capital investments on the waterside and the landside in our channels and highway infrastructure that serve our nation's ports to maintain resiliency and fluidity going forward. Houston, and ports most critical to the nation's economy, should be prioritized for infrastructure investments. If not, the nation's busiest supply chains are vulnerable to future disruption.

The Houston Ship Channel has been underfunded by 50%–60% for operations and maintenance dollars over the past several years, resulting in draft restrictions throughout the channel. We have received 18 cents per ton of cargo compared to the national average of 60 cents. Houston serves as the Gateway to the Gulf for many global trade routes. Without an adequately maintained channel, vessels must leave cargo behind at the port of origin, exacerbating supply chain backups. Therefore, if Houston is draft restricted, many of the other Gulf ports effectively are as well. To remain in front of fluid commerce, our federal dollars must go to maintaining the authorized depth at our nation's most critical ports, like Houston. Vessels continue to get larger and carry more cargo each year. We must be able to accommodate them.

In Houston, we have been able to speed up our deepening and widening project (Project 11) by pre-funding the first segments of the dredging, shaving off about 5–7 years of a traditional timeline. Each day earlier that we deliver this project, which serves more than 200 waterfront facilities, it generates \$366,000 of economic impact to the nation. In the past few years, the federal government has funded several other ports to finish their dredging projects to completion, and adding the Port of Houston to that list would have enormous positive impact on the nation's economy.

As I mentioned earlier, each segment of the supply chain including our highways, rail, and those trades that support them, are necessary to make goods movement run smoothly and efficiently. As I am joined here today by experts in those fields, I am sure they can shed more light on those specific segments. Mr. Chairman and committee members, I applaud your commitment to funding solutions to ensure we learn from the past supply chain crisis and are well prepared to minimize the next.

Thank you for your time today, and I am happy to answer any questions y'all may have.

Mr. GRAVES OF MISSOURI. Thank you.

Now we turn to Mr. Greg Regan, who is the president of Transportation Trades Department, AFL–CIO. Thanks for being here.

**TESTIMONY OF GREG REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO**

Mr. REGAN. Good morning. Thank you, Chairman Graves and Ranking Member Larsen, for inviting me to testify at this committee's first hearing of this new Congress.

Mr. GRAVES OF MISSOURI. You might pull your mic a little closer.

Mr. REGAN. Little closer.

Mr. GRAVES OF MISSOURI. Yes.

Mr. REGAN. I am Greg Regan, president of the Transportation Trades Department of the AFL–CIO. I am speaking today on behalf of 37 unions who build, operate, and maintain our Nation’s transportation systems, whose members are on the front line of our freight network.

This hearing occurs at a pivotal moment. TTD has long advocated for making generational and much needed investments in infrastructure and transportation services to meet our growing freight and passenger needs. Because of the Infrastructure Investment and Jobs Act, there are already 7,000 projects underway that are putting Americans to work, that includes 3,800 bridge projects, improvements to nearly 70,000 miles of roads and highways, and the largest ever dedicated investment in our ports. These projects are creating jobs, growing the economy, and strengthening supply chains in rural and urban communities alike.

Just yesterday, the DOT announced the first round of Mega grant recipients. And we learned that long overdue freight needs are being met nationwide. This includes \$250 million for improvements to the Brent Spence Bridge, which facilitates \$400 billion in freight movement annually. Another \$150 million will go to replace the I–10 Calcasieu River Bridge in Louisiana. And that will include a workforce agreement to target jobs and training opportunities to underserved communities.

Other IIJA investments in ports and rural communities will improve the efficiency and reliability of our supply chain not just in major cities, but also in communities like Tell City, Indiana; Columbus, Mississippi; Sanford, North Carolina, and many more. Cities and towns represented by every single member of this committee will benefit from these investments.

These projects are not only helping to meet the demand of our freight network through more modern and efficient transportation infrastructure, they are also ensuring that millions of workers will have higher wages and better benefits. This economic opportunity is possible because of the Biden administration’s whole-of-Government approach to supporting workers and creating good union jobs.

Coupled with the CHIPS Act, the IIJA will also ensure our domestic manufacturing capabilities are resilient to sudden shocks or rapid changes in the global economy. Policies like Build America, Buy America in the law will significantly increase domestic manufacturing of iron steel and other manufactured goods. And the CHIPS Act will serve as an historic boost to domestic advanced manufacturing.

But these investments and policies enshrined into our law over the past 2 years are only part of the picture. If we are serious about strengthening our national supply chain, we must also address the fundamental and structural problems that caused the crisis which cannot be not be solved through investment alone.

Since the beginning of this pandemic, the most significant supply chain challenges we faced were not the result of inadequate infrastructure, but were largely due to business decisions made by employers in key freight industries that put profits over workers and consumers. Their decisions in the years leading up to the pandemic were not driven by better service but, rather, by shareholder concerns. Thus, they rendered themselves completely unprepared for

the stress the pandemic placed on our own supply chain. Even as the system came crashing down around them, freight companies continued to rake in record profits while your constituents paid the price.

While my written testimony goes into much greater detail, I would like to highlight just a handful of examples for the members of this committee. In the years leading up to the pandemic and during its onset, the freight rail industry furloughed 45,000 rail workers, a staggering 30 percent of its total workforce, not because these workers weren't needed, but simply because the railroads wanted to maximize profits. When consumer demands spiked, the railroads simply couldn't keep up because they had already slashed their workforce and operating equipment to the bone.

The trucking industry has complained of so-called workforce shortages, but the truth is, they have slashed wages and benefits and made working conditions so bad that workers who would otherwise be interested in driving are simply looking elsewhere. When our ports needed trucks and trains to move cargo so they could off-load ships, the capacity just was not there.

Elsewhere in the airline industry, some are pushing the same false narrative about workforce shortages with the goal of reducing pilot training requirements and boosting profits. As we prepare for an FAA reauthorization, we must reject any efforts to go backwards on safety for any reason, least of which being profit margins.

And in the maritime industry, the lack of a comprehensive national maritime strategy has left our country subject to the whims of the largely four known shipping conglomerates, since we do not have the sealift capacity to meet our own export and import needs. We can loosen this choke hold and increase our competitiveness by supporting the construction and operation of Jones Act vessels. Enabling U.S.-built, U.S.-flagged, and U.S.-crewed feeder vessels to carry a portion of America's trade will ensure a more resilient supply chain.

Finally, pursuing a more efficient supply chain cannot be an excuse to eliminate or weaken longstanding labor laws, such as collective bargaining rights, fatigue protections, training and qualification requirements, and others. Doing so would only harm the workers that tirelessly keep the economy and the flow of goods moving. But it is the dedication and expertise of these workers, in addition to the investments that are currently being made, that give me the confidence that we will deliver a stronger and more resilient supply chain in the years to come.

Thank you for inviting me, and I look forward to answering your questions.

[Mr. Regan's prepared statement follows:]

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**Prepared Statement of Greg Regan, President, Transportation Trades  
Department, AFL-CIO**

On behalf of the Transportation Trades Department, AFL-CIO (TTD), and our 37 affiliated unions, I thank Chairman Graves and Ranking Member Larsen for inviting me to testify before the Committee today on the current state of our supply chain. The employees represented by TTD-affiliated unions are on the front lines of these challenges—including the workers directly engaged in freight transportation

at railroads and ports and who work in industries that have struggled with the down-economy effects of chokepoints and delays.

Since the beginning of the pandemic, many of the most significant supply chain challenges we've faced as a nation are due to harmful employer practices driven not to increase efficiency or deliver better service but purely out of greed. These practices have degraded the transportation and infrastructure workforce in every possible way and upended the reliability of our freight network. And it is your constituents who have paid the economic price for the decisions and practices of these companies.

From rail and aviation to maritime and trucking, employers are simply not investing in their employees. Nor are they investing in the critical infrastructure on which our economy and communities depend. The lack of investment from employers in their workforce and infrastructure lies in stark contrast to the record federal investments resulting from the historic, bipartisan Infrastructure Investments and Jobs Act (IIJA). Transportation Labor has been sounding the alarm about the severe consequences of slashing workforces in the freight industry and investments in infrastructure long before the pandemic brought these challenges squarely into the spotlight. I'm not sure how much louder we can be at this point. And despite the fact that transportation unions and their members have worked tirelessly to shore up and improve our transportation network and systems, I'm sad to say there are those who continue to try to blame the workers for supply chain problems.

Labor unions, the workers they represent, and even this administration—which signed the most consequential infrastructure and domestic manufacturing bills in generations—have all been scapegoated. Those who blame working people or this President for our supply chain problems do so knowing their claims are hollow but advance their narrative anyway to score cheap political points and shield themselves from blame. The truth is, since the start of the pandemic, corporations have vacuumed up massive, record-setting profits.

At the same time, they've opportunistically made it harder for American families to get by. These companies charge obscene amounts of money for goods, gouging the public and making it harder for everyday workers to make a fair and honest living. That blame needs to be focused where it's due: rampant corporate greed that prioritizes already wealthy shareholders over everyday consumers, workers, and the economic health of this country. That is the true reason our supply chain has suffered and it's the reason American families have suffered. It's time to rein in these practices and refocus our national goals on helping working people get ahead. We urge all policymakers to do the same.

#### CLASS I FREIGHT RAILROADS HAVE SPENT YEARS UNDERMINING THEIR WORKFORCE AND THE QUALITY OF THEIR SERVICE AND THEIR BEHAVIOR CONTINUES TO THIS DAY

The supply chain crisis put a spotlight on components of the freight network that were particularly ill-prepared for the demand shock during the pandemic. Class I freight railroads were one of the root causes of the crisis. Railroads made deep cuts to their workforce and capital infrastructure, which has rendered them unable to meet freight service demand, including the pandemic-era surge. These problems continue in the freight rail industry to this day.

Class I railroads have moved away from the traditional operating model of a service industry that responds to variable demand of its customers. Instead, for the last eight years, the Class I railroads have pursued an operating model known as "precision scheduled railroading", or PSR. Under PSR, railroads supposedly operate on a more regimented schedule. Put another way, instead of providing service to shippers in a manner that fits their business needs, trains are supposed to arrive at a "scheduled" time and it is then incumbent on the shipper to be prepared to load or unload cargo. Further, by eliminating on-demand response and flexibility in the construction and quantity of freight trains, railroads can reduce capital assets like locomotives and cars, and eliminate jobs across the network. Unfortunately, PSR fails to provide neither precise nor regularly scheduled service. The experience with PSR over the last eight years proves that it is a failed operating model. It does not provide the service rail customers need, has led to the elimination of thousands of rail workers vital to the operations of these railroads, and ultimately threatens the long-term viability of the Class I railroads.

Freight rail is of vital importance to our country's economy. It accounts for around 40% of long-distance ton-miles and hauls one-third of the country's exports.<sup>1</sup> The supply chain challenges that arose from the backlog of ships and containers at ports like the Ports of Los Angeles and Long Beach were due in large part to capacity

<sup>1</sup> <https://www.aar.org/wp-content/uploads/2021/03/AAR-Integrated-Rail-Network-Fact-Sheet.pdf>

issues in our freight rail system. Throughout the pandemic, many railroads self-imposed “service embargoes” to limit the freight they would accept from customers.<sup>2</sup> These service embargoes have led to massive backlogs of freight waiting to move by rail, including containers at ports that the railroads were supposed to move.<sup>3</sup>

Members of Congress from both parties and both Chambers have repeatedly raised how the railroads’ poor service is negatively impacting their constituents and a wide array of businesses in practically every sector of the American economy, including agriculture, energy, mining, and chemicals.<sup>4</sup> Just last month, the Surface Transportation Board (STB), which is the federal agency that regulates the economic aspects of the freight rail industry, held an emergency hearing involving Union Pacific (UP) and one of its customers, Foster Farms, because Union Pacific is not providing adequate rail service to deliver corn feed to Foster Farms to prevent millions of chickens from starving to death.<sup>5</sup> It has taken two emergency service orders from the STB to improve the situation. And it’s not just Foster Farms suffering. In 2017, UP had 27 service embargoes. In 2022, UP had over 1,000 service embargoes, a tenfold increase.<sup>6</sup> 98% of the service embargoes in 2022 were attributed to congestion on UP’s rail network, which is entirely in the railroad’s control.<sup>7</sup>

The rise in service problems and complaints from customers are not affecting the railroads’ bottom line, though. The Class I railroads have achieved record profits—more than over \$160 billion since 2015. In nominal terms, these profits are more than even what the railroads made at the height of their robber baron days in the 19th century.

Last week, Union Pacific announced that despite these service challenges, or perhaps because of them, they still managed to make a record profit in 2022 of \$7 billion, up from \$6.5 billion in 2021.<sup>8</sup> CSX and Norfolk Southern (NS) also announced record profits in 2022 of \$4.17 billion<sup>9</sup> and \$4.8 billion<sup>10</sup> respectively. The current trend in the industry is clear: rail service gets worse, capacity and workforce gets slashed, while the railroads make record profits year after year and the American people and businesses pay the price.

To achieve these profits for their shareholders’ benefit, the railroads have stripped their rail networks of their human and physical capital. Fundamentally, that is how PSR works—it seeks to make the railroads and their shareholders the most money possible by achieving the lowest possible operating ratios (a railroad’s expenses as a percentage of revenue).

Since 2015, the Class I railroads have collectively laid off 45,000 workers, which is the equivalent of 30% of their total workforce. Simultaneously, the railroads slashed their investments in physical infrastructure like railroad tracks and sold off or sidelined essential equipment. For example, in its latest financial disclosures, UP stated that since 2015 it had reduced its rail locomotive fleet by 11% and the number of freight cars by 21% and only managed to keep 62% of its remaining locomotives and 80% of its freight cars in service in 2021.<sup>11</sup> Collectively, the four largest railroads in the United States (BNSF, UP, NS, CSX) have cut \$32 billion in capital expenditures since 2015 versus their expected 2015 baseline. These decreases do not account for the inflation that has happened since that time, which makes the decline in investment even worse.

<sup>2</sup> <https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=limited-embargo-of-certain-shipments-destined-for-california> and Union Pacific asks customers to meter traffic or face embargoes—Trains

<sup>3</sup> <https://www.cnn.com/2022/07/08/railroad-bottleneck-at-west-coast-ports-reaches-inflection-point.html>

<sup>4</sup> See Finstad Leads Letter Urging Action on Union Pacific Rail Service Delay—Press Releases—United States Congressman Brad Finstad ([house.gov](https://www.house.gov)); <https://www.cramer.senate.gov/news/press-releases/sens-cramer-baldwin-colleagues-press-surface-transportation-board-on-rail-disruptions-urge-reliable-service-for-american-industries-shippers>; Rep. Ralph Norman & Rep. Jim Costa Lead Bipartisan Effort Concerning Deficient Rail Service’s Role in Fertilizer, Grain and Feed Shortage Affecting American Farmers—U.S. Representative Ralph Norman ([house.gov](https://www.house.gov))

<sup>5</sup> <https://www.wsj.com/articles/poultry-farm-says-millions-of-chickens-could-starve-from-rail-delays-11673054052>

<sup>6</sup> See the November 22nd, 2022 Notice issued by the Surface Transportation Board entitled: “Oversight Hearing Pertaining to Union Pacific Railroad Company Embargoes”, Docket No. EP 772. Accessed at <https://www.stb.gov/proceedings-actions/search-stb-records/>.

<sup>7</sup> *Ibid*

<sup>8</sup> <https://www.up.com/media/releases/4q22-year-end-earnings-nr-230124.htm>

<sup>9</sup> <https://www.csx.com/index.cfm/about-us/media/press-releases/csx-corp-announces-fourth-quarter-and-full-year-2022-results/>

<sup>10</sup> <https://nscorp.mediaroom.com/2023-01-25-Norfolk-Southern-reports-Q4-and-full-year-2022-results>

<sup>11</sup> UP: Annual Reports

That decline in private investment from the railroads is in stark contrast to the \$66 billion in record investments in freight and passenger rail infrastructure in the IIJA. TTD urges Members of Congress to consider this point with the seriousness it deserves. Not only are the railroads driving up costs for Members' constituents back home for the benefit of their shareholders alone, but now the American people are being asked to further pad the profits of this industry with their tax dollar supported federal investment. There is not a single Member of Congress or American who shouldn't be outraged by this.

The bottom line is that the freight railroads are failing their customers by not providing the level of service their customers need. And the railroad CEOs admit that.<sup>12</sup>

Both labor unions and the railroads agree that the first stepping stone to better freight rail service is to hire more workers. It is not physically possible to move the same amount of volume of goods with 30% fewer workers. The railroads claim they are trying to hire more workers but they have not made near enough progress. Employment levels as of December 2022 across all the Class I railroads, except Canadian Pacific (CP), are below their pre-pandemic levels.<sup>13</sup> Most rail crafts are also below their pre-pandemic levels, with maintenance of equipment and stores employees more than 20% below pre-pandemic levels and train and engine transportation employment levels currently 3% below pre-pandemic levels.<sup>14</sup> The one exception is executives, which are 5% above their pre-pandemic levels.<sup>15</sup>

Furthermore, the railroads' training programs for new workers are falling woefully short. In order to replace employees that have been voluntarily or involuntarily separated from the railroads, there would need to be more employees graduating from those training programs than there are employees being separated. The Federal Railroad Administration (FRA) conducted an analysis of Class I training data from the last eight months of 2022. In six of the eight months, the number of employees graduating from training programs did not keep up with the number of employees separated from the four largest Class I railroads (BNSF, UP, CSX, NS).<sup>16</sup>

While the railroads' targeted hiring campaigns and incentive programs to boost the number of new hirings are certainly welcomed, the ongoing exodus of highly-skilled and experienced rail workers who have decades of knowledge and the resulting consequences greatly outweighs the limited amount of new hiring the railroads have done.

TTD and its rail unions will continue to fight to address the horrific conditions rail workers face on a daily basis like a lack of paid sick leave<sup>17</sup>, draconian attendance policies<sup>18</sup>, increased safety issues<sup>19</sup>, and an inability to get time off for medical appointments that risk workers' health.<sup>20</sup> Rail workers deserve paid sick leave—it is the morally right and just thing to do. TTD and our unions are forever grateful to the 221 House members and 52 Senators last Congress who stood with the rail workers in their fight for paid sick leave. We are equally as disappointed in those lawmakers who stood with wealthy railroad CEOs at the expense of working people. However, sick leave and the other problems mentioned above are symptoms of the underlying disease, which is PSR. Even if these issues are addressed, they will not wholly fix the fundamentally broken freight rail system. The underlying freight railroad operating model needs to be changed in order to restore a healthy freight rail system.<sup>21</sup>

Since the freight railroads refuse to fix the mess they've created, it is going to take action from Congress and federal regulators such as the STB and the FRA to solve the problems that still exist in the freight rail industry today that threaten not only our country's supply chain, but our economy as a whole.

<sup>12</sup>“I was a customer for a couple decades. Our customers don't really love us.” New CSX CEO Joe Hinrichs, September 26th 2022. See New CSX CEO pledges to improve service and company culture—Trains

<sup>13</sup>49 CFR employment data, EP 770 employment data, and EP 724 service data that the STB collects. 49 CFR and EP 770 employment data can be found in the Urgent Issues Employment Data report found at <https://www.stb.gov/reports-data/economic-data/employment-data/#Urgent%20Issues%20Employment%20Data>. EP 724 data can be found in the Service Issues Data report found at <https://www.stb.gov/reports-data/rail-service-data/>.

<sup>14</sup>Ibid

<sup>15</sup>Ibid

<sup>16</sup>The Surface Transportation Board started requiring these 4 Class I railroads to report this data in April 2022

<sup>17</sup>For Rail Workers, Anger Persists Over Sick Leave—The New York Times (nytimes.com)

<sup>18</sup>Railroads' workplace attendance policies at the heart of labor dispute—NPR

<sup>19</sup><https://www.kansascity.com/news/business/article268941917.html>

<sup>20</sup>In rail strike showdown, death of worker helped stoke anger—The Washington Post

<sup>21</sup><https://ttt.org/policy/getting-our-nations-freight-rail-system-back-on-track/>

The long-term health of our freight rail industry, which impacts our entire supply chain and economy, is in peril. TTD and the whole of rail labor stand ready to work with every member of this Committee to fix our once great freight rail system.

TO MEET DEMAND IN THE TRUCKING WORKFORCE, WE MUST ENSURE THAT  
TRUCKING JOBS ARE GOOD JOBS

Participants in today's hearing are likely to point toward the purported "truck driver shortage" as a contributor to last year's supply chain challenges and as the impetus for future legislative and regulatory action. While there are certainly instances of trucking companies reporting difficulties in hiring and retaining drivers, we reject the notion of a workforce shortage out of hand. As discussed in our April 2022 policy statement on the topic, there is no shortage of workers. There is a shortage of employers offering good jobs that offer people who are eager to work the dignity they deserve, and they are fed up.<sup>22</sup>

It is incumbent on our partners in government to conduct a more rigorous analysis of the practices in the trucking industry that drive workers away from their jobs and make it harder and harder to keep pace with demand. Shockingly, in recent years, the long-haul trucking sector has experienced approximately 90% turnover on an annual basis. Yet, according to a recent publication by the American Trucking Association, "high turnover is an indicator of driver empowerment" and not a blaring alarm necessitating self-reflection on industry practices.<sup>23</sup> I cannot imagine a more flippant response to this problem of their own making.

While a convenient political narrative for the industry, it is a woefully incomplete understanding of the economic and quality of life issues facing the nation's truck drivers. Long hours, time away from home, rampant misclassification of drivers under labor law, predatory vehicle leasing schemes, and inadequate real wages all serve to discourage new drivers from entering the industry and making a career of driving.

In short—Congress should focus its efforts on fundamental changes to the industry that improve the quality of jobs and working conditions and promote economic fairness. The answer will not be found in reducing licensure or training standards, including irresponsible efforts to address "shortages" of unsafe teenage drivers. The answer is similarly not found in allowing companies to overwork drivers through hours of service expansions or encouraging and protecting predatory employment models.

To this end, we commend the Biden administration's swift actions last year to implement its Trucking Action Plan, including the expansion of registered apprenticeships as a high-quality and proven recruitment and retention strategy and allowing these programs to be stood up rapidly.

KEYS TO DEVELOPING A HEALTHY SUPPLY CHAIN IN THE LONGSHORE AND MARITIME  
SECTOR

Despite the pandemic's challenges, our nation's ports are clear of supply congestion and mostly back to pre-COVID levels. At this time last year, there were more than 100 container ships stuck waiting off Los Angeles and Long Beach, California ports, with around 150 containers from all North American ports combined. Today, almost zero ships are waiting off the Pacific and very few off the East and Gulf coasts. Remember that there were never issues at our ports, but instead, more capacity was needed on the rail and trucking side once containers were offloaded. Longshore workers' productivity shattered records throughout the pandemic, and rail and trucking infrastructure couldn't keep up the same pace.

Additionally, the international ocean shipping industry is dominated by foreign-owned companies that have greatly increased their profits during the pandemic. The consequences of the U.S.' dependence on foreign vessels and foreign goods greatly affect American agricultural cargo and our manufacturing exports.

Transportation Labor believes the key to developing a healthy supply chain is the continued application of the Jones Act to the movement of waterborne commerce in the domestic trades and the greater utilization of U.S.-flagged and U.S.-crewed vessels in America's foreign trades. The United States needs greater self-reliance in ocean shipping and must act with urgency to reverse the dangerous dependency on foreign flag vessels to carry more than 98 percent of America's exports and imports. Because our domestic maritime industry has dedicated terminals, equipment, and longstanding partnerships in U.S. ports, Jones Act vessels have been able to deliver

<sup>22</sup> <https://ttd.org/policy/policy-statements/the-shortchanging-of-labor/>

<sup>23</sup> <https://www.trucking.org/news-insights/truth-about-trucking-turnover>

goods without the outsized increases in freight rates, disruptions, and service challenges wrought by foreign cargo vessels during the pandemic. Without the Jones Act, domestic waterborne commerce would similarly be controlled by foreign vessels. We've seen the ramifications play out throughout the pandemic as almost all global ocean freight shipping is controlled by foreign companies that have raised prices for American businesses and consumers while threatening our national security and economic competitiveness.

TTD urges Congress and the administration to fully enforce, fund, and enhance the policies and programs necessary to support the operation of U.S.-flag vessels in the foreign trades. This will ensure that a greater portion of America's trade will be controlled by American vessels and their American crews, lessening the opportunity for foreign flag vessels to dictate the terms and conditions governing ocean transportation. This will also reduce the serious maritime seagoing workforce shortage caused in large measure by the pandemic and help guarantee that this segment of the maritime industry will remain available to provide the commercial sealift readiness capability relied upon by the Department of Defense. We also call on Congress and the Administration to take the necessary steps to facilitate the construction and operation of Jones Act vessels as part of a new, expanded marine highway system along America's coasts. Creating a fleet of U.S.-built, U.S.-flagged, and crewed feeder vessels to carry a portion of America's trade along our coasts to be offloaded in underutilized ports for transportation by truck and rail to their ultimate inland destination will not only strengthen the maritime industry and create jobs aboard ship and in our ports but will help mitigate against future shipping supply chain disruptions.

#### THE US AVIATION SECTOR SHOULD NOT BE UNDERMINED BY UNFAIR FOREIGN PRACTICES

Often overlooked in these discussions is the amount of freight cargo moved by aviation in America every year. Last year, it was 16,047.526 million in revenue ton-miles<sup>24</sup>. Therefore, we must also work to ensure that our aviation sector remains competitive and is not undermined by unfair foreign practices. For example, as air travel resumes internationally, the U.S. government should consider the substantial competitive and safety issues posed by a resumption of flying by Chinese air carriers. China suspended its bilateral air services agreement with the United States and has dictated the terms for U.S. carrier operation in the region, including the draconian treatment of U.S. flight crew. We urge the federal government to pursue a phased approach to flight restoration, a focus on crew treatment and ensure that the lack of U.S. airline use of Russian airspace does not place our carriers at a disadvantage.

#### STRENGTHEN AMERICAN MANUFACTURING AND SUPPLY CHAIN RESILIENCY TO BOOST OUR ECONOMIC COMPETITIVENESS

We commend the administration and President Biden on signing an Executive Order (EO) in January 2021 that tasked the U.S. government with using federal financial assistance awards and procurements to maximize production in the United States. The EO will require a new domestic manufacturing initiative to strengthen U.S. manufacturing exports and is essential to building long-term resilience across critical supply chains, especially as the government implements the IIJA, our country's most significant investment in modernizing the transportation systems on which our supply chains depend. The IIJA includes an expansion of Buy America rules that were supported for years by this committee, paving the way for the inclusion of the Build America, Buy America (BABA) Act in the IIJA. BABA enhances DOT's existing Buy America requirements by applying domestic content preferences for iron, steel, manufactured products, and construction materials to all federal aid assistance infrastructure projects.

TTD has expressed concerns with DOT's pace of implementation, given that it has been over a year since the IIJA was enacted and over eight months since the BABA statutory implementation deadline on May 14, 2022. TTD has expressed concerns with DOT's proposed adoption of new general waiver policies that would carve out large amounts of federal infrastructure money from the BABA requirements. These investments have been necessary for many years, and America's factory workers are ready, willing, and able to meet the country's needs if given the opportunity. Congress was clear that the era of flagrant misuse of waivers and egregious loopholes was over. The law intended to enhance Buy America, not weaken existing policies.

<sup>24</sup> <https://www.transtats.bts.gov/freight.asp?20=E>

We urge the committee and administration to ensure the durability of these landmark provisions is appropriately implemented.

In addition to the EO, the CHIPS and Science Act passage last year was another historic win for American workers and our economy, adding more resiliency to America's supply chain. The legislation is a necessary long-term investment to ensure America maintains an edge abroad and will revitalize domestic manufacturing and workforce development at home. But unless there are strong worker protections to ensure high-quality jobs with a free and fair choice to join a union, the tens of billions of dollars in taxpayer investments in semiconductor factories will amount to a blank check to Big Tech. These federal investments need to be tied to binding and enforceable commitments to workers and communities to make sure the economic benefits are shared broadly and equitably and can strengthen the middle class by creating high-quality union jobs.

#### LONG OVERDUE INVESTMENTS MADE BY CONGRESS IS ALREADY MAKING A SIGNIFICANT DIFFERENCE

Finally, we must acknowledge the powerful impact the IIJA has already had—and will continue to have for years to come—as we make generational and long overdue investments across our entire transportation network, including key bottlenecks for the movement of goods. Already, there are 7,000 IIJA projects underway. That includes 3,800 bridge projects, improvements to nearly 70,000 miles of roads and highways, and the largest-ever dedicated investment in our ports.

Just this week, the DOT announced \$1.2 billion from the new National Infrastructure Project Assistance (MEGA) discretionary grant program for nine projects across the country. These projects will create jobs, grow the economy, strengthen supply chains, improve mobility for residents, and make our transportation systems safer for all users. These desperately needed federal investments are not cynically red state or blue state projects for the sake of political expediency. They are being made wherever the need is most significant. Consider the importance of the following projects for today's hearing:

- *\$250 million for Brent Spence Bridge improvements (Cincinnati, OH, and Covington, KY):* This critical freight corridor over the Ohio River sees over \$400 billion in freight movement annually and is among the worst truck bottlenecks in the nation. The MEGA award is in addition to a \$1.38 billion Large Bridge Grant that was announced in early January. Together, this generational investment will support critical improvements to the Brent Spence Bridge and fund construction of a new bridge alongside the existing bridge to relieve congestion and improve travel time reliability—supporting the regional economy.
- *\$150 million to replace the I-10 Calcasieu River Bridge (Calcasieu Parish, LA):* The existing bridge, constructed before the Interstate Highway System, is structurally and functionally deficient, resulting in significant freight bottlenecks, despite its location on one of the most important domestic freight highway corridors. The new bridge will relieve congestion and improve regional mobility, supply chain efficiency, and safety. What's more, a workforce agreement will be created for the project that includes ways to target jobs and training opportunities to underserved communities.

The IIJA is also making historic investments in our coastal seaports, Great Lakes ports, and inland river ports, helping improve supply chain reliability through increased port capacity and resilience, more efficient operations, reduced port emissions, and new workforce opportunities. Together, these investments will help get goods to shelves faster and lower costs for American families. These investments will benefit small and large ports alike in many of your communities back home. Consider just one example: \$1.6 million for the Ohio River Pier Project in Tell City, Indiana. This small port provides pig iron to the local foundry that helps sustain 1,000 jobs in a town of around 7,000 people. The project will fund construction of a 40-foot diameter pier for a crane that will be used for direct barge-to-truck unloading of cargo. Currently, when the river is too high, the pier cannot operate. The new design will allow the crane to operate regardless of water levels. This will have a significant economic impact for this small town and will help move goods faster and cheaper.

I also want to highlight the funding in the rural grant program, which is just one part of the IIJA's commitments to rural America and will play a significant role in improving our supply chain in every corner of this country. Smaller communities have some of the greatest needs when it comes to better roads, bridges, and other infrastructure needs. Projects like the I-64 Widening Project in Kent County, Virginia will add a third lane in each direction, widen shoulders, add rumble strips, and add wider and flatter clear zones in each direction of I-64. These investments

will improve safety, efficiency, and reliability along what is known as the I-64 Innovation Corridor, supporting access to more than 1 million jobs in the region.

Other discretionary grant investments—like those being made in the INFRA and RAISE grant programs—and funding through formula grants are finally working to meet the demand that has gone unmet for far too long in this country across our entire transportation network. While I know some of you did not support the IIJA, I hope you will reflect on the benefits it is delivering to your communities and that we can work together regardless of political affiliation in the future to ensure that we don't find ourselves once again dealing with the effects of underinvestment in all of our communities.

#### LOOKING AHEAD

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.

We also call on you to reject ill-conceived efforts to hijack the crisis to attack supply chain workers and their industries. Pursuing 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 state of our supply chain. We look forward to continuing to work together to foster more resilient freight transportation industries well into the future.

Mr. GRAVES OF MISSOURI. Thank you very much.

Now we will open it up for questions from the committee. We will start with Mr. Crawford.

Mr. CRAWFORD. Thank you, Mr. Chairman.

I ask unanimous consent to submit a letter for the record from The Fertilizer Institute on their concerns about supply chain challenges.

Mr. GRAVES OF MISSOURI. Without objection, so ordered.

[The information follows:]

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**Letter of February 1, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Corey Rosenbusch, President and CEO, The Fertilizer Institute, Submitted for the Record by Hon. Eric A. "Rick" Crawford**

FEBRUARY 1, 2023.

The Honorable SAM GRAVES,  
Chairman,  
Committee on Transportation and Infrastructure, 2167 Rayburn House Office Building, Washington, DC 20515.

The Honorable RICK LARSEN,  
Ranking Member,  
Committee on Transportation and Infrastructure, 2164 Rayburn House Office Building, Washington, DC 20515.

Via Electronic Mail

Re: Hearing on "*The State of Transportation Infrastructure and Supply Chain Challenges*"

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

Thank you for holding today's hearing regarding "*The State of Transportation Infrastructure and Supply Chain Challenges*." The Fertilizer Institute (TFI) appreciates the opportunity to share information on what has been an extraordinarily challenging couple of years for fertilizer shippers.

TFI represents companies that are engaged in all aspects of the fertilizer supply chain in the United States. The fertilizer industry ensures that farmers receive the nutrients they need to enrich the soil and, in turn, grow the crops that feed our nation and the world. Fertilizer is a key ingredient in feeding a growing global population, which is expected to surpass 9.5 billion people by 2050. Half of all food grown around the world is made possible through the use of fertilizer, hence its importance to farmers and food production. The U.S. fertilizer industry generates more than \$130 billion in economic benefit each year and supports approximately 487,000 American jobs.

In terms of logistics, virtually every mode is critical. Fertilizer moves *year-round*. Although there is a two- to three-week window when most crops are planted and fertilized, continuous production and transportation to storage locations throughout the year is necessary to ensure sufficient supplies during application periods. While the timeliness of shipments is more sensitive in the Spring planting season, the volume of shipments is virtually the same each quarter of the year. The transportation of fertilizer from producer to storage to farmer can involve truck, barge, pipeline, rail or some combination of two or more modes. In terms of ton-miles, 63% moves by rail; 15% by truck; and 17% by barge. While it moves shorter distances by truck, all fertilizer touches a truck at least once in its journey to the farm. For ammonia—a critical fertilizer and building block for three-fourths of all fertilizers—60% of ton-miles move by pipeline.

There have been several bipartisan successes of recent years that Congress should build upon. The bipartisan Infrastructure Investment and Jobs Act provided crucial investments for roadways, inland navigation, and rural broadband. Last year, Congress approved the Water Resources Development Act of 2022, which among other priorities, permanently modified a cost-share change to promote enhanced funding for critical inland navigation projects. Congress also acted to prevent a rail network shutdown, which would have devastated our economy.

TFI urges Congress to consider the following infrastructure priorities.

- *Rail Policy*: While a rail strike would have been catastrophic, rail service was also highly problematic last year. Rail carriers must do better, and they can start by hiring more employees so they can reasonably comply with their common carrier obligation (CCO). Rail shippers typically do not have any competitive options. Promoting rail competition is a sensible market-based incentive to encourage a more customer-focused industry that currently enjoys grossly unbalanced market power. Congress should consider clarifying the CCO and it should support the Surface Transportation Board as it modernizes its outdated oversight.
- *Motor Carriers*: The fertilizer industry relies on commercial drivers for “just in time” delivery to their farmer customers. Trucking capacity is a serious challenge. The vaccine mandate on transporters of essential commerce should be eliminated. Driver apprenticeship programs should be promoted. Hours of service (HOS) regulations should be streamlined and reformed. Capacity can also be improved through efficiency gains. For example, the current Gross Vehicle Weight (GVW) limit for Federal Interstate Highways of 80,000 lbs. on 5 axles was established in 1982, prior to the standardization of anti-lock brakes and other roadway safety improvements. Outdated weight restrictions make U.S. farmers and businesses less competitive and require MORE trucks to travel on roadways to haul the same amount of goods, making matters worse for infrastructure wear-and-tear and trucking capacity (driver shortage).
- *Waterways*: One-fifth of fertilizer movements rely on inland navigation while exports of agricultural goods comprise 20 percent of farm income and support more than 1 million jobs. Our nation’s locks and dams are in urgent need of maintenance and modernization. Most locks and dams were built in the 1920s and 1930s and have far exceeded their 50-year design lifespan. In the past decade, there has been a 700 percent increase in unscheduled stoppages for repairs.
- *Pipelines*: The U.S. pipeline system in the United States is critical to fertilizer manufacturers. Currently there are two ammonia pipelines in the United States. Manufacturers utilize pipelines to transport anhydrous ammonia from production facilities to high-utilization regions in the corn belt and from the Port of Tampa to phosphate production facilities in Florida. Ammonia production facilities also utilize substantial volumes of industrial natural gas for power and as a feedstock for ammonia production. Pipelines are also important for sequestration of carbon dioxide, which is increasingly being utilized to decarbonize production of ammonia.
- *Critical Infrastructure and Unmanned Aircraft Systems (UAS)*: The Federal Aviation Administration (FAA) should promote safe deployment of UAS, but it

must also ensure our nation's critical infrastructure facilities, including fertilizer production facilities, are protected from unauthorized UAS activity. The federal government should have clear guidelines to protect our nation's critical infrastructure facilities and FAA should coordinate with the Department of Homeland Security (DHS) to promote swift and effective responses to unauthorized UAS activity.

Thank you again for holding today's hearing and for the opportunity to submit this statement. TFI looks forward to working with the 118th Congress. Should you have any questions, please reach out to Justin Louchheim of my staff.

Sincerely,

COREY ROSENBUSCH,  
*President and CEO, The Fertilizer Institute.*

Mr. CRAWFORD. Thank you, Mr. Chairman.

I thank the panelists for being here today. I want to start with you, Mr. Spear. Looking back at the COVID-19 pandemic, in your estimation, what could the Federal Government have done better to manage the public health concerns, at the same time maintaining the continuity of our supply chain?

Mr. SPEAR. How much time do you have?

Mr. CRAWFORD. Yes.

Mr. SPEAR. Seriously, I think—look, it is our first time all of us together dealing with a global pandemic. I mean, there were a lot of things thrown at our country, our economy, our industry that we had to adjust to very quickly in order to make certain that store shelves had milk, eggs, bread; gas stations had fuel. It then became the rush to get PPE, test kits, certainly the vaccine itself. That was moved largely by truck.

And our industry stepped up to the plate when a lot of people stayed at home not knowing what impact this would have on their health, their family's health, real concerns. And isolated in the cab, with those risks still in their minds, they still got in the cab, they still drove those loads to where they needed to be. They were the glue, certainly in the early weeks and months of the pandemic.

And I think the inclusiveness of Government and industry to solve problems of this magnitude is absolutely essential. I can point to things where we had a lot of conflict between our Government and the Government of Canada. And our inability to match bearings with public safety and health policy to get our trucks across the line, their largest trading partner. We are dependent on one another. And it just took two governments sitting down to hammer that out, and they didn't do it.

So, that is leadership. And I am not pointing fingers. It is just a reality that has an impact, on an industry like ours, to serve the populous, to serve society on the basic needs that they have to have.

I think that, when we looked at the OSHA announcement to require vaccines for employers with more than 100 employees, and my background coming off Senate Labor Committee, OSHA at DOL, we knew, my team and I, that they did not have the authority to do that. We did not want to go to court. That was something that we certainly could have sat down and worked out but would have ended up litigating it. It went to the Supreme Court, 6-3 decision, you know the outcome. A lot of wasted time on issues that we really should be sitting down and working collectively toward.

But I can also point to a lot of good that came out of it as well. I drove many instances across the country. We have a home in Wyoming. Seeing those billboards out in the cornfields thanking a trucker, seeing the banners fly off the overpasses, our drivers getting off an interstate and being met by a police officer to escort them to where they can get a hot meal and a shower. Girl Scouts, Boy Scouts, church groups handing out baked goods at rest areas. Our image climbed to a level not even known possible.

Mr. CRAWFORD. On that note, Mr. Spear, I would say that you did this at a time when the trucking industry was suffering and continues to suffer through a massive driver deficit.

Mr. SPEAR. Yes.

Mr. CRAWFORD. And on that note, I share your support as you outlined in your testimony, make it easier for our constituents to choose a career in the trucking industry, such as ensuring that 18- to 20-year-old drivers have a CDL, can work across State lines. I know you have been supportive of that in the 3-year pilot program that was included in the IJA.

How is that implementation going?

Mr. SPEAR. It is like everything in this town: slow, slower than we would like. But we have grown accustomed to it. I do think this program is going to bear fruit. We worked really hard in this committee to create a bipartisan understanding of this block of talent, 18 to 20. But I am also mindful, as you understand, that 49 States already allow an 18-year-old to drive a class 8, they just can't cross State lines. Now, that works pretty good from Redding, California, down to San Diego. Twenty minutes outside of Providence, Rhode Island, not so much.

What we need to do is have good training and technology. None of the 49 States do that. This program that was put into the IJA does. So, we need to teach young talent how to safely and responsibly operate this equipment. Inserting an issue like forward-facing cameras, that was not part of the deal. That was not in the bill. And it is going to cause—that is a matter, by the way, that most companies and their employees should negotiate out. Having a camera in your face every minute of every hour of every workday, that is not in the bill, and it is going to limit companies from joining this program and putting young talent in a capacity where they can replace our aging workforce.

So, this is a concern. Oversight is needed. I applaud you for shedding some light on this. We need to follow the law that you handed the agency. And so, that is one area where I think it is going to serve as a bit of a headwind in getting this program off of the ground.

Mr. CRAWFORD. I appreciate it. My time has expired.

Thank you, Mr. Chairman.

Mr. GRAVES OF MISSOURI. Thank you.

Mr. Larsen.

Mr. LARSEN OF WASHINGTON. Thank you, Mr. Chair.

First question is for Mr. Spear. First, I want to recognize on page 2 in your testimony in paragraph 3, your recognition that this debt limit debate could have existential threats to our economy and certainly to spending on investments on our infrastructure, if infra-

structure spending gets wrapped up in this debate. So, I want to recognize that.

My question, though—and I am going to put up a graphic here, if I could have the staff put up the graphic.

So, in your testimony, on page 5—it will get there—on page 5, you note the December 16, 2021, memo from the DOT and your concerns that the guidance will force money into fixing infrastructure first as opposed to highway expansion. This graphic does show in fiscal year 2021, about \$8.1 billion—this is Federal Highway Administration numbers—\$8.1 billion in 2021 to highway expansion or reducing congestion.

[Slide shown.]

**Slide Submitted for the Record by Hon. Rick Larsen**



Mr. LARSEN OF WASHINGTON. The memo comes out. The fiscal year 2022 number is about 25 percent higher. It is not lower. It is not an indication that the memo had much of an impact, if any impact at all, in the State's ability—any State's ability to invest in expansion or reducing congestion. And then we have 4 more years left on the BIL.

So, if you could help me understand the basis of your argument when at least the early numbers show that is not the case. Now, I will say, the jury is still out, but right now, I think you ought to take a plea deal on your argument.

Mr. SPEAR. Well, I appreciate that. I am not there yet. Candidly, I think this is trending. It is encouraging, but it also begs the question: Why have the memo at all? Why have the memo at all? Why do we have to draw lines between new and existing infrastructure?

The emphasis and concern that we have is, within the top 100 bottlenecks, which we provide you every year, we track it every year based on GPS data, shows by speed where are the worst bottlenecks. Start with that and let's address them.

What we don't want to have is really nice roads and bridges, and we are still sitting on them going nowhere. We need truck lanes. We need parking. We need new bridges. We need more capacity to move the freight. We are burning fuel, and we are emitting CO2 just sitting there. That is the concern. If this trends continues, I can see that being resolved, but I don't see any need for the memo.

Mr. LARSEN OF WASHINGTON. And I think that is a fair concern. When you look at the competitive grants the administration has included with regards to highway expansion, in 2022, \$225 million through the RAISE program, \$1.3 billion through the Mega, INFRA, and Rural grant programs were awarded that include highway expansion as well. So, it does seem to be headed that way.

And, Mr. Firth, good friends who are members of the AGC in Washington State, so, this is certainly not an anti-Oregon question. I want to clarify that immediately for you.

But given these numbers and the AGC's argument on highway expansion versus—in Washington State, we call fix it first preservation and maintenance. I believe we actually do need to preserve and maintain our existing infrastructure, as well as invest in new infrastructure.

Can you address what you see in these numbers and what AGC might respond?

Mr. FIRTH. Yes. This is the first time I have seen these numbers.

Mr. LARSEN OF WASHINGTON. Sure, I understand.

Mr. FIRTH. But 80 percent of the funding is already on fix and repair of existing infrastructure and everything. And the way I look at it is, our infrastructure is over 50 years old and it needs to be repaired. And I think having States having that flexibility to decide what is best for their process or what their needs are will be good. Having a one-size-fits-all policy I don't think is very practical.

As I was flying yesterday from Oregon over, and I am flying over Montana and South Dakota, and I am just thinking of what their needs are versus Oregon or Washington's.

Mr. LARSEN OF WASHINGTON. Yes. Sure. Well, I appreciate that. In Washington State, 21 percent of our transportation package the past year was funded through the IIJA over the next several years. And Washington State tends to use that money for preservation and maintenance because we have the third highest gas tax in the country. Now, we are tied for lowest income tax in the country as well, zero. So, there is a tradeoff. That is our particular experience. But I think the numbers are starting to show that the memo is having no impact. So, maybe there is a concern about why it was issued at all, but still I think the concerns being expressed don't really seem to yet match the reality.

With that, I yield back.

Mr. GRAVES OF MISSOURI. Mr. Webster.

Mr. WEBSTER OF FLORIDA. Thank you, Mr. Chairman.

Mr. Guenther, does the port have any problems dealing with permitting or other forms of restraint when you are trying to upgrade or maintain your infrastructure?

Mr. GUENTHER. Regarding our channels that I spoke about, obviously those are Federal projects, and we are the non-Federal sponsor working with the Corps of Engineers to get those going. We

need to—those are the investments that I am talking about that we need to do.

As far as permitting for our ports, seaports that we invest in, the ports are investing in, our dollars, permitting is not an exorbitant amount of strain on that relationship there. But we need to focus on the moneys that are allocated to the Corps of Engineers from the Federal Government to make sure that we are moving forward with these projects and so that we stay ahead of what these needs are for serving our seaports with deeper and wider channels, and maintain channels, the maintenance of those channels to deliver the goods.

Mr. WEBSTER OF FLORIDA. So, is there something Congress could do to speed up—I know the Corps is sometimes hard to move—but we could speed up or help with those, or is there some funding issue or other things that need to be done in order to get the channels open?

Mr. GUENTHER. Sure. And we really focus on, again, the operation and maintenance funding. For instance, the Houston Ship Channel hasn't been at its authorized depth and width that it was authorized for for many years due to the lack of operation and maintenance funding. It typically takes, in our channel, for instance, \$50 million, \$60 million a year to keep it properly maintained, and we get far less than that—the Corps gets far less than that to put in their work plan to keep it maintained.

And we are in that situation now that we have been underfunded for years, and we are about to a point where we are going to become draft restricted again, which we have been in the past. And what that means, it puts a tremendous burden. The vessels are light-loaded. It puts more cost on the goods that are to be shipped, and it is passed along to the consumer ultimately.

So, I would stress the emphasis on making sure that our channels that are most critical in terms of tonnage in serving the supply chain, make sure that those channels are funded for operation and maintenance.

Mr. WEBSTER OF FLORIDA. So, what depth are they approved to?

Mr. GUENTHER. Well, our particular channel, we are authorized to an operating depth of 45 feet. Without going into detail, typically they will have some advanced maintenance on that. But several times—and we are about to get to that point, because there is not enough money in the Corps work plan right now to maintain the channel, that we are about to be draft restricted, probably as early as March.

Mr. WEBSTER OF FLORIDA. So, what is the depth you are at, then, that you get to?

Mr. GUENTHER. Well, it is at 45 feet, but as the channel silts up, it is going to be restricted to maybe a foot or two. And a foot is a tremendous amount of cost to the 9,000 ships that come and go in the Houston Ship Channel every year that are restricted.

Mr. WEBSTER OF FLORIDA. So, the idea is just more dredging?

Mr. GUENTHER. Yes. Directing operation and maintenance funds to our channels.

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

Mr. GRAVES OF MISSOURI. Eleanor.

Ms. NORTON. Thank you very much, Mr. Chairman.

First, I would like to submit into the record a letter from the Advocates for Highway and Auto Safety that outlines important issues of trucking safety.

Mr. GRAVES OF MISSOURI. Without objection.  
[The information follows:]

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**Letter of January 31, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Catherine Chase, President, Advocates for Highway and Auto Safety, Submitted for the Record by Hon. Eleanor Holmes Norton**

JANUARY 31, 2023.

The Honorable SAM GRAVES, Chair,  
The Honorable RICK LARSEN, Ranking Member,  
*Committee on Transportation and Infrastructure,*  
*United States House of Representatives, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

As you prepare for tomorrow's hearing, "The State of Transportation Infrastructure and Supply Chain Challenges," Advocates for Highway and Auto Safety (Advocates) urges you to prioritize safety in policies and legislation involving our nation's roadway infrastructure, commercial motor vehicles (CMVs) and the supply chain. We respectfully request this letter be included in the hearing record.

FATAL TRUCK CRASHES CONTINUE TO OCCUR AT AN ALARMINGLY HIGH RATE

In 2021, over 5,600 people were killed in crashes involving a large truck.<sup>1</sup> Since 2009, the number of fatalities in large truck crashes has increased by 66 percent.<sup>2</sup> Additionally, nearly 147,000 people were injured in crashes involving a large truck in 2020.<sup>3</sup> New data finds that in the first six months of 2022, traffic fatalities in crashes involving at least one large truck are up 10 percent; 2,811 people were killed.<sup>4</sup> The cost to society from crashes involving large trucks and buses was estimated to be \$143 billion in 2019, the latest year for which data is available.<sup>5</sup> When adjusted solely for inflation, this figure amounts to over \$156 billion.<sup>6</sup>

WEAKENING ESSENTIAL SAFETY REGULATIONS ENDANGERS TRUCK DRIVERS AND THE PUBLIC

Issues involving the nation's supply chain have highlighted problems that members of the trucking industry have not effectively addressed for decades including high turnover rates for drivers and poor working conditions. We urge the Committee to reject the following proposals that fail to address the root of these issues and will jeopardize all road users.

"Teen Truckers" are a substantial threat to public safety. 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 as a rationale. These projections have consistently failed to materialize.<sup>7</sup>

The trucking industry continues to face a driver retention crisis, not a driver shortage. In fact, a March 2019 U.S. Bureau of Labor Statistics (BLS) analysis

<sup>1</sup>Traffic Safety Facts: Crash Stats; Early Estimates of Motor Vehicle Traffic Fatalities and Fatality Rate by Sub-Categories in 2021, NHTSA, May 2022, DOT HS 813 298.

<sup>2</sup>*Id.* and Traffic Safety Facts 2019: A Compilation of Motor Vehicle Crash Data, NHTSA, Aug. 2021, DOT HS 813 141. Note, the 66 percent figure represents the overall change in the number of fatalities in large truck involved crashes from 2009 to 2021. However, between 2015 and 2016 there was a change in data collection at U.S. DOT that could affect this calculation. From 2009 to 2015 the number of fatalities in truck involved crashes increased by 21 percent and between 2016 to 2021, it increased by 20 percent.

<sup>3</sup>Traffic Safety Facts, 2020 Data: Large Trucks, NHTSA, Apr. 2022, DOT HS 813 286.

<sup>4</sup>National Center for Statistics and Analysis. (2022, December). *Early estimates of motor vehicle traffic fatalities and fatality rate by sub-categories through June 2022* (CrashStats Brief Statistical Summary. Report No. DOT HS 813 405). NHTSA.

<sup>5</sup>2022 Pocket Guide to Large Truck and Bus Statistics, FMCSA, Dec. 2022, RRA-22-007.

<sup>6</sup>CPI Inflation Calculator, BLS, available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm).

<sup>7</sup>FMCSA Document ID: 2000-84100-0782. American Trucking Associations, Truck Driver Shortage Analysis 2015 (Oct. 2015).

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.”<sup>8</sup> Rather, industry data shows driver turnover at some carriers is near 90 percent.<sup>9</sup> As U.S. Department of Transportation (U.S. DOT) Secretary Pete Buttigieg 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.<sup>10</sup> In addition, states issue more than 450,000 new commercial driver licenses (CDLs) each year demonstrating that there are candidates to fill vacancies.<sup>11</sup> 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.”<sup>12</sup> In fact, age is the most important factor 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.<sup>13</sup>

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).<sup>14</sup> This plain-truth reality is not surprising. 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 and complex tasks, specifically the pre-frontal cortex, may not be fully reached until one’s mid-20s.<sup>15</sup> 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 have repeatedly opposed 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.<sup>16</sup> 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

<sup>8</sup>United States Department of Labor, Bureau of Labor Statistics, Is the U.S. labor market for truck drivers broken? (Mar. 2019).

<sup>9</sup>American Trucking Associations, Fourth Quarter Truck Driver Turnover Rate Shows Muddled Picture (Mar. 12, 2021).

<sup>10</sup>See: <https://www.msnbc.com/morning-joe/watch/transportation-secretary-buttigieg-on-supply-chain-issues-worker-shortage-125851717987> (Nov. 10, 2021).

<sup>11</sup>Greg Rosalsky, Is There Really A Truck Driver Shortage?, National Public Radio (May 25, 2021).

<sup>12</sup>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 safety. *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).

<sup>13</sup>Campbell, K. L., *Fatal Accident Involvement Rates By Driver Age For Large Trucks*, *Accid. Anal. & Prev.* Vol 23, No. 4, pp. 287–295 (1991).

<sup>14</sup>Campbell, K. L., *Fatal Accident Involvement Rates By Driver Age For Large Trucks*, *Accid. Anal. & Prev.* Vol 23, No. 4, pp. 287–295 (1991).

<sup>15</sup>Arian, M, et al., Maturation of the adolescent brain, *Neuropsychiatric Disease and Treatment* (Apr. 3, 2013).

<sup>16</sup>Engine’s Caravan Survey Public Opinion Poll (2020).

96 percent of individuals who responded opposing the proposal along with 88 percent of the truck drivers and 86 percent of the motor carriers.<sup>17</sup>

The Infrastructure Investment and Jobs Act (IIJA) enacted in November 2021 included a provision requiring the establishment of pilot program to permit teen truckers to operate in interstate commerce.<sup>18</sup> This imprudent initiative could have a drastic impact on public health, even more so if not executed with needed safeguards. This program is basically a “science experiment” with all road users serving unknowingly as “test subjects.” If accepted research protocols are not followed by FMCSA, it could result in preventable deaths and injuries and will also jeopardize the legitimacy of the outcomes of the program. Lastly, the agency’s recommendations and conclusions in the required report to Congress must be supported by sufficient evidence and data collected during the program. We urge this Committee to execute effective oversight of this program.

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 are safer, rather than tapping into an unsafe pool of teenage drivers to fill the void, will ideally lead to healthier and more fulfilled drivers who stay in their jobs as well as attract new applicants. Further attempts to pull teenagers from high school hallways onto high-speed highways, such as the Ceasing Age-Based (CAB) Trucking Restrictions Act (H.R. 267), should be rejected by Congress.

*Driver fatigue is a well-known and documented dangerous issue that plagues the trucking industry.* The National Transportation Safety Board (NTSB) has repeatedly cited fatigue as a major contributor to truck crashes.<sup>19</sup> 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.<sup>20</sup> 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.

One of the most effective tools to help prevent driver fatigue is the use of Electronic Logging Devices (ELDs) to record drivers’ hours of service (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.<sup>21</sup> The U.S. DOT also estimated the annualized net benefits of adopting ELDs to be over \$1 billion.<sup>22</sup> Congress, recognizing the benefits of ELDs, mandated their use as part of the Moving Ahead for Progress in the 21st Century (MAP-21) Act.<sup>23</sup> 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.<sup>24</sup> FMCSA reports that since the implementation of the ELD rule, the percentage of driver inspections with an HOS violation has decreased significantly.<sup>25</sup> 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. In addition, the IIJA expands the HOS exemption already provided to these carriers to include one covering a 150 air-mile radius from the final destination (the prior exemption was for a 150 air-mile radius from the

<sup>17</sup>Young Commercial Driver Pilot Training Program, Notice of denial of petition to initiate a pilot program, 68 FR 34467, 34469 (June 9, 2003).

<sup>18</sup>Pub. L. 117–58, § 23022 (2021).

<sup>19</sup>NTSB, Highway, Multivehicle Work Zone Crash on Interstate 95 Cranbury, New Jersey June 7, 2014, Accident Report NTSB/HAR-15/02 (Aug. 11, 2015).

<sup>20</sup>75 FR 82170 (Dec. 29, 2010), citing Dinges, D.F. & Maislin, G., “Truck Driver Fatigue Management Survey,” May 2006. FMCSA–2004–19608–3968.

<sup>21</sup>80 FR 78292 (Dec. 16, 2015).

<sup>22</sup>*Id.*

<sup>23</sup>Pub. L. 112–141 (2012).

<sup>24</sup>80 FR 78292 (Dec. 16, 2015).

<sup>25</sup>FMCSA, Electronic Logging Devices: Improving Safety Through Technology, See: <https://eld.fmcsa.dot.gov/>

source).<sup>26</sup> Allowing certain haulers to skirt the ELD rules jeopardizes the safety of the animals in transport, truck drivers and all who travel on the roadways.

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).<sup>27</sup> 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, the Federal Aviation Administration (FAA) considers OSA to be a disqualifying condition unless properly treated.<sup>28</sup> 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.<sup>29</sup> We urge the Committee to address this critical safety issue.

In March 2020, FMCSA issued an Emergency Declaration exempting drivers from critical safety regulations including those governing hours of service for those operators providing direct assistance for relief efforts related to the COVID-19 pandemic.<sup>30</sup> The declaration expired in October 2022. Advocates has called for the agency to be transparent about the use of this exemption by making any related data available to the public.<sup>31</sup> To date, the agency has not responded or posted any data on its website. Release of this information will contribute significantly to the public's understanding of the impact to roadway safety resulting from the exemptions to the Federal Motor Carrier Safety Regulations granted by the Emergency Declaration, as well as the frequency of use of the exemptions by the industry.

*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 purported 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."<sup>32</sup> 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.<sup>33</sup> 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.<sup>34</sup> 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.<sup>35</sup> The Federal Highway Administration (FHWA) estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is \$123.1 billion.<sup>36</sup>

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.<sup>37</sup> Overweight trucks also pose serious safety risk. Brake violation are a major reason for out-of-service violations.<sup>38</sup> According to a

<sup>26</sup>H.R. 3684, 117th Congress 1st Sess. (2021).

<sup>27</sup>81 FR 12642 (Mar. 10, 2016).

<sup>28</sup>*Id.*

<sup>29</sup>82 FR 37038 (Aug. 8, 2017).

<sup>30</sup>FMCSA, Extension and Amendment of Emergency Declaration 2020-002 (Aug. 31, 2021).

<sup>31</sup>Advocates for Highway and Auto Safety, Statement on Extension of Emergency Declaration and Exemptions from Certain Truck Safety Regulations (Sep. 2, 2021).

<sup>32</sup>2021 Infrastructure Report Card—Bridges, American Society of Civil Engineers (ASCE); 2021 Infrastructure Report Card—Roads, ASCE.

<sup>33</sup>2021 Infrastructure Report Card—Bridges (ASCE).

<sup>34</sup>Comprehensive Truck Size and Weight Limits Study: Bridge Structure Comparative Analysis Technical Report, FHWA, June 2015.

<sup>35</sup>Effect of Truck Weight on Bridge network Costs, NCHRP Report 495, National Cooperative Highway Research Program, 2003.

<sup>36</sup>2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 7, p. 7-34, FHWA, 2016.

<sup>37</sup>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.

<sup>38</sup>Roadside Inspections, Vehicle Violations: All Trucks Roadside Inspections, Vehicle Violations (2019—Calendar), FMCSA.

North Carolina study by IIHS, trucks with out-of-service violations are 362 percent more likely to be involved in a crash.<sup>39</sup> 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.<sup>40</sup> 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 in the relevant truck size and weight laws and regulations be considered until data limitations are overcome.<sup>41</sup>

The IIJA invested billions of dollars to improve and elevate the safety of 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 onto 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.<sup>42</sup> 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.<sup>43</sup> We urge this Committee to oppose any increases to federal truck size and weight limits, including mandating double 33 foot trailers, pilot programs and state or industry specific exemptions. This includes the Safer Highways and Increased Performance for Interstate Trucking (SHIP IT) Act (H.R. 471) that has numerous reckless provisions, among them, the establishment of a pilot program for overweight trucks.

*While autonomous driving 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 the U.S.’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, and particularly in the absence of new standards to ensure the technology performs safely and as needed. 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.<sup>44</sup> 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 developed the “AV Tenets,” policy positions which should be a foundational part of any AV legislation.<sup>45</sup> 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

<sup>39</sup>Teoh E, Carter D, Smith S and McCartt A, Crash risk factors for interstate large trucks in North Carolina, *Journal of Safety Research* (2017).

<sup>40</sup>Code of Federal Regulations (CFR) Title 49 Part 571 Section 121: Standard No. 121 Air brake systems (FMVSS 121).

<sup>41</sup>Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

<sup>42</sup>2017 Annual Report.

<sup>43</sup>Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

<sup>44</sup>NHTSA, Standing General Order 2021–01 (Aug. 2021).

<sup>45</sup>See: <https://saferoads.org/autonomous-vehicle-tenets/>

were developed for application to vehicles under 10,000 pounds, many of the principles also could apply to larger commercial vehicles. At a minimum, ACMVs must meet safety standards for the ADS and related systems, including for cybersecurity, and operations must be subject to adequate oversight as a starting point for their potential deployment. In February 2022, Advocates commissioned a public opinion poll that found that 85 percent of respondents were concerned with sharing the road with driverless trucks.<sup>46</sup> Moreover, 60 percent of respondents indicated that their concerns would be addressed if the vehicles were required to meet minimum government standards.

Lastly, we commend Congress for the safety advances included in the bipartisan IIJA and have been urging the U.S. DOT to implement the directives with urgency to address the motor vehicle crash fatality and injury toll. With 115 people being killed on our roadways every day, time is certainly of the essence.

Thank you for your consideration of these issues. We look forward to working with you to improve safety on our nation's roadways.

Sincerely,

CATHERINE CHASE,  
*President, Advocates for Highway and Auto Safety.*

cc: Members of the U.S. House of Representatives Committee on Transportation and Infrastructure

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Jefferies, the Infrastructure Investment and Jobs Act provides \$102 billion in total rail funding. This is a historic investment that will advance our goal of reducing carbon emissions from transportation. In addition to mitigation, adaptation is also an essential aspect of responding to climate change.

Could you expand on how the industry is investing in climate-resilient rail infrastructure?

Mr. JEFFERIES. Well, thank you for that question, and certainly a very top-of-mind point. So, right now, freight rail is the most fuel-efficient, least environmentally intensive way of moving goods over land. One gallon of diesel can move one ton of freight about 500 miles. And 1 intermodal train will take about 200 trucks off the highway. What does that do? That reduces emissions, it reduces congestion, it reduces wear and tear on public infrastructure.

And so, as we stand here today, an immediate way to reduce emissions is to partner with my friend at the ATA and get that supply chain humming so you are going from truck to rail to truck, pulling trucks off the highway. But we can't just sit where we are right now and be happy with our environmental performance. We have got to continue to drive that process forward, and that includes both out on the network, but also in the yard.

So, in the yard, we are investing in electric cranes, emissions-reduction technology, the technology that shuts off a locomotive so it is not idling, similar to what you have in your car at a stoplight or stop sign. But we are also investing in battery-electric power, hydrogen power, increased use of biofuels, decreased friction between wheel and track to increase glide. So, there is a vast number of tools that are being deployed.

And certainly, the IIJA provides significant opportunities to partner with the Federal Government, both in money coming out of the DOT, but also money coming out of DOE as well. And we are working with our members to leverage those opportunities to really partner with the Federal Government and with the suppliers and

<sup>46</sup>ENGINE'S CARAVAN SURVEY, Public Concern About Driverless Cars and Trucks (Feb. 2022).

the OEMs to make sure that we are really pushing the limits of what we can do with battery electric, what we can do with hydrogen, what we can do with biofuels, because it is not a just pick one path right now and go forward. We need to be exploring all opportunities and the pros and cons of each type of NextGen fuel and NextGen power source.

And so, that is what we are doing. And the programs that the IIJA provided and the agencies that it did are just getting up and humming. And so, we are looking forward to really working with the Government to advance that R&D.

Ms. NORTON. Thank you.

Mr. Spear, I was surprised—perhaps I shouldn't have been—to note that women make up, according to the Bureau of Labor Statistics, only 7.9 percent of truckdrivers. That was in 2021. That was an increase of only 0.1 percent compared to the year before.

How does the trucking industry plan to increase recruitment and training opportunities for women?

Mr. SPEAR. Great question. Added emphasis across all of our member companies has to change and shift toward different pools of talent. We talked just recently about the 18 to 20, veteran service members exiting. We also need to really make an emphasis on urban hiring and gender.

And with respect to women drivers, you have got to sit down and listen to them. You have got to begin to understand what are the headwinds, what are the reasons and concerns that they have about joining our industry. Talk to the ones that are out there among the 7 percent, and what are their concerns.

You are going to find that, within training, those programs need to improve. There needs to be more women and women trainers. And that is essential that those programs be adjusted and understand the concerns that women have about becoming a truckdriver. But you also have drivers that will say, when they are out on the road, there are concerns for getting out of the truck at night, not having well-lit, secure parking. And it is an inhibitor. It is a deterrent from someone entering a good-paying job with exceptional benefits. We want to grow this populous.

I was just in Europe and found out that their percentage is actually 3 percent. I thought 7 percent was bad. So, we really need to have better training. We need to look at ways that we can improve safety and security and alleviate those concerns, and women feel safe in this industry. And they are a major contributor. It is a pool of talent that we believe could really shore up our shortage. We are short 78,000 drivers. I would love all 78,000.

Mr. ROUZER [presiding]. The gentlelady's time has expired.

I now recognize Mr. Perry for 5 minutes for questions.

Mr. PERRY. Thank you, Mr. Chairman. And thank you, gentlemen, for making the trip and being here.

Mr. Spear, since we are on the discussion, not where I wanted to go, but I think it is important to recognize that truckdrivers, whether you are a man or a woman, need to be able to protect yourself in an increasingly violent society. And the inability to carry a firearm across State lines in many cases because of the restrictions in various States makes that an impossibility and to stay legal. So, it is something that you might want to consider taking

up in all the things that you are doing to protect your drivers and keep them safe.

But I would like to talk to you about the independent contractor business model in our Nation and how important it is to the trucking industry, the supply chain, and the people's freedom and ability to get into a business and make good decisions for themselves and for their family. And to note that the administration, in particular people on the left in States, are assaulting this model of making a living in your industry. The front line in this war is California, of course, where AB5 effectively outlawed owner-operated models by reforming the—or restating the term “employee.”

I just wonder if you could characterize, with as much cargo comes into California and has to be shipped across the country, how AB5 has affected the industry and the supply chain, from your viewpoint.

Mr. SPEAR. Well, independent contractors have—that model has been in existence for over 90 years, and it is the spirit of being a small business person. A lot of our largest members started with one truck as independent contractors. Now, they employ thousands of people. So, giving people the right to choose that path, that is what is in question here, with AB5 and the Department of Labor NPRM that is currently pending.

And I would just say that, stop talking to the media and start talking to the independent contractors. I can bring scores of them up here, and they will tell you exactly why they choose this path. They want seasonal work. They want part-time work. They have another business on the side. Whatever the reason may be, that is their decision. That is their choice. And saying that an employer is forcing them into this category because they don't want to pay them more or they don't want to pay health benefits, the independent contractors will tell you that that is not the case.

Now, I am not saying in any employment category there isn't some instance out there of abuse, but to reform the entire State law or the national law based on an anecdote—just talk to the independent contractors. They will tell you that this is a wonderful profession. This is a business that they want to grow. They want to add trucks, drivers underneath them, serving other companies. Give them that option. Don't take it away. We are short 78,000 drivers. You take away our independent contractors, you are going to pay more for everything we eat, drink, and wear. Think inflation is bad now; it makes it only worse.

Mr. PERRY. Sir, so, everybody in the room knows, even though we are not sometimes willing to talk about what this is about. It is not about profits. It is about unionized labor and forcing it on people. And you already mentioned the Wage and Hour Division of the U.S. Department of Labor's notice of proposed rulemaking in that regard.

But what I am looking for, in the last 1½ minutes or less that we have: What has been the impact to the supply chain, if you can contextualize that, in California and across the country, and what will be the impact if it is allowed through the NPRM to go across the country? What will be the impact to consumers, to people that want to be in the business, and to citizens across the country?

Mr. SPEAR. Any State like California that adopts AB5 as a model, you are going to have an inability to move freight from those ports to the rest of the country. I have companies that are simply dependent on this model, cannot operate, cannot comply with the rules of AB5. They added layers for testing who is and isn't an independent contractor. They are going to pull out. They are just simply not going to operate in California. That is unacceptable, not just for the people that live in California, but throughout the rest of the country.

We can't put everything on rail. I mean, we have to work together, Ian is right. But that stuff is going to have to move out of those ports by truck. By and large, those companies aren't going to operate there. That is the impact on the supply chain. You are going to pay more. You are going to have less options. I think consumers, constituents are going to find that unacceptable.

And you are right—by the way, there is no enforcement mechanism in California for this. It is done by the plaintiff's bar. That is by design. They are going to litigate us, and then the unions are going to come in and try to organize them. That is what is behind this.

Mr. PERRY. I yield.

Mr. ROUZER. The gentleman's time has expired.

I now recognize the gentlelady from California, Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Mr. Jefferies—it is on. Can you hear? OK.

The infrastructure law provided \$3.7 billion for much needed grade separation projects. Now, we need to construct these projects to relieve congestion through safety, air quality, and freight movement in the communities such as mine.

How and when will the railroads work with local communities and State transportation agencies to ensure these projects get built quickly? Are railroads willing to remove redtape and invest in these projects?

Mr. JEFFERIES. Well, that is a great question. And we are 100 percent willing to remove redtape to get projects done. We often need a partner in the State and Federal Government to do that as well. But you are spot on. The \$3.7 billion for grade crossing safety, grade separations was probably the most dynamic, exciting piece of that vast legislation for our particular industry. And we look forward—I believe we are expecting the first round of the NOFA to come available here in the near future, and I know my railroads are excited about the opportunities there.

And you are right, we have got to pick the most high-impact projects. We have got to collaborate with communities to make sure that we are being good partners. We do have a track record there. We have got models around the country of working with States and localities to get projects done. And this is a really, really transformational opportunity for pedestrian safety, for quality of life, for freight fluidity, for emissions reductions. So, we are absolutely ready, willing, able to work to put these dollars to work.

Mrs. NAPOLITANO. We sure could have used approval of some of those on the Alameda Corridor-East. We have some projects that railroads gave zero on projects.

Mr. Spear, I am very concerned by the increasing number of reports of new female truckdrivers being sexually assaulted during training rides. Stories are often the same: New truckdriver is required to take a training ride with an experienced truckdriver and then is sexually harassed or assaulted during the ride. It often occurs in isolated areas and results in the trainee being left on the side of the road.

What is the trucking industry doing to address this situation?

Mr. SPEAR. Great question, Congresswoman. Zero tolerance. Zero. It is unacceptable to have that happen in any industry, but specifically to trucking. Just to Congresswoman Norton, I would love to have all 78,000 vacancies filled by women drivers. To do that, our members, our industry have to have not just programs that train to this of why that is unacceptable, they actually have to enforce it to ensure that it doesn't happen.

At ATA, we are very active with Truckers Against Trafficking, working with our driver populous to train them to spot the trafficking of women and children for sexual exploitation. That there sets the bar that that behavior is unacceptable. We train drivers to look for it. Internally within the company, we have to go further. We just launched, last year, the Women in Motion program, to really focus on training programs that overcome this instance, and having women train women drivers is certainly a good step forward. These programs have to speak to that.

Mrs. NAPOLITANO. Well, I certainly would like to see some of those programs carried through, sir.

Mr. SPEAR. Absolutely.

Mrs. NAPOLITANO. Mr. Regan, I recently visited busdrivers in my district in the El Monte bus station. They were very pleased with our work in the infrastructure law to improve busdriver safety. They informed me of the need of more and bigger shields to protect them. We must continue to hold FTA and transit agencies accountable for these bus safety improvements. Busdrivers also mentioned that many drivers are reaching retirement. And there needs to be improved recruitment and training on the jobs.

Can you please comment on both the needs for bus safety and this busdriver recruitment?

Mr. REGAN. Yes. Thank you for that question, Congresswoman.

And thank you for your help in getting that driver safety provision included in the IIJA. That was a vital piece of legislation. And to be honest with you, I am a little frustrated by the pace with which that is being implemented. I would like to see us moving a little bit further along, a little bit faster in terms of protecting these workers, simply because it is horrific what they have to deal with and the number of stories I see of somebody being attacked.

But also, I think that is a direct impact on your second part of the question, which is on recruitment. We do need to recruit a whole lot more people into this industry. It starts with making them good jobs, which I think in most systems, these are going to be good-paying jobs with good benefits. But if the best advertisement for your industry is the local news story about another driver being assaulted, then that is not a very good advertisement about bringing people into your industry.

So, we need to address this right now, and I think shields are a good start, but also bringing workers into the planning and training, and the safety planning committees is a critical part.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Mr. ROUZER. The gentlelady's time has expired.

The gentleman from Texas, Mr. Babin, is recognized for 5 minutes.

Dr. BABIN. Thank you, Mr. Chairman. I really appreciate all these good witnesses that are here today.

I proudly represent the 36th Congressional District of the State of Texas, and home of our great Port of Houston. Thank you for being here, Mr. Guenther. We really appreciate it. I am going to get to a question to you here in just a little bit.

As you all know, some of you mentioned in your testimonies, Government investment is absolutely vital to our transportation and infrastructure industry. And that said, we all also know that just throwing money at a problem doesn't make it go away. Unfortunately, the Federal Government proved that, once again, with last session's Democratic bill, the \$1.2 trillion bill that has directly, I think without question, contributed to the current economic crisis that we find ourselves in.

I hope that some lessons were learned. Throwing billions of taxpayer dollars at this industry without prioritizing supply chain solutions, pandemic recovery issues like fraud and abuse, serious workforce issues, overly burdensome redtape, and other underlying issues will not actually allow us to see long-term sustainable improvement and investment in our Nation's infrastructure. As some of you noted, it will lead to industry-specific inflation, increasing the costs that are unique to our sector.

On top of that, carving out political handouts for niche green transportation and infrastructure projects and companies is not good for the industry as a whole. In fact, it causes delays, increases costs, and is anticompetitive and all around counterproductive. I am very deeply concerned about the left's rampant spending and the impact it is having on inflation and our economic stability as we face a \$31.4 trillion national debt now.

Quickly, Mr. Firth, are AGC members hurting due to higher costs: timber, transportation, equipment, and things like that?

Mr. FIRTH. I am sorry, could you repeat the question?

Dr. BABIN. Yes. Are your general contractor members hurting due to higher costs? Are higher costs hurting your members?

Mr. FIRTH. Yes. Absolutely. I mean, look anywhere you want. Fuel is a big one. Just internally in our own company, this last year, our fuel bill, we were close to over \$1 million over budget on fuel.

Dr. BABIN. Absolutely.

Mr. FIRTH. Our workers have to drive further, as we are in rural areas. It costs more money. So, fuel is just one that comes to my mind.

Dr. BABIN. Thank you.

Mr. Jefferies, are AAR members hurting from higher costs: constructing new facilities, labor, maintenance, et cetera?

Mr. JEFFERIES. Absolutely. Inflation affects not only the goods and materials we use to operate, it also affects the customers whose goods we move. So, it is hit on multiple layers. Absolutely.

Dr. BABIN. Thank you.

Mr. Spear, are ATA members hurting from higher costs: fuel, labor, sky-high new truck prices, batteries, et cetera?

Mr. SPEAR. All of the above.

Dr. BABIN. Amen.

Mr. SPEAR. The price of fuel is still a huge headwind, especially for the smaller companies, owner-operators.

Dr. BABIN. Right.

Mr. SPEAR. It is a serious matter.

Dr. BABIN. Thank you.

Now, Mr. Guenther—again, thank you all for being here. As the proud Representative of the Port of Houston, I have a question for you regarding the port's underfunding issue which you mentioned in your opening statement. I am personally very familiar with the operations and maintenance funding challenges that our port has faced for many years.

But would you quickly elaborate on the Houston Ship Channel's specific needs for additional investment there? You mentioned that in your opening statement.

Mr. GUENTHER. Yes. Thank you, Congressman Babin. The reality is, you mentioned throwing money at a problem. Yes, we have got a short term. We are about to be draft restricted. A quick fix might say throw money at the problem, but what really needs to happen in reality is annual maintenance; deliberate, robust in decisions to make sure that we are providing the funding for those waterways in the United States that have the most economic benefit, and make sure they are not deficient or limited.

As I mentioned, we, the largest port in the country in terms of tonnage and number of vessel calls on a per-ton basis, are getting less of funding for operating and maintenance, which makes our channels—our Houston Ship Channel become more limited. And at the end, when ships are drawing less water and able to haul less freight, it is going to cost more money. And we have to be prepared for those ships and making future investments—we are building our channel now, deepening and widening our channel now, to handle those ships that can come through the Panama Canal, the new Panama Canal.

Dr. BABIN. Yes, sir. Exactly.

I see that my time is up, so, I will yield back, Mr. Chairman. Thank you.

Mr. ROUZER. The gentleman yields back.

The gentleman from California, Mr. Garamendi, is recognized for 5 minutes.

Mr. GARAMENDI. Thank you, Mr. Chairman. I want to thank Chairman Graves for calling this hearing.

The implementation of the IIJA is of critical importance to this Nation. The bill itself will—could, if properly implemented, really lay the foundation for America's economic future, all the pieces of it, whether it is dredging or highways or railroads, also the grid system and the like. Critically important.

I want to focus on two issues. First of all, Mr. Regan, if you could respond to the AB5 issue quickly.

Mr. REGAN. Yes. Thank you for that. First of all, the language—what AB5 does is simply provide a clear definition for what is an employee, what is not. It does not eliminate the independent contractor method, because there are plenty of ways for someone to do outside work and clearly demonstrate they are independent contractors; nor does it require them to be in a union. In fact, all it does is properly classify workers so that they have the constitutionally guaranteed ability to join a union should they choose to do so.

Mr. GARAMENDI. Thank you. There will be much more discussion about this. This is an ongoing discussion in California about the implementation and possible modification of it along the way. Thank you.

I want to really deal with an issue that was raised by Mr. Firth, and also you, Mr. Regan, and that deals with the \$1.2 trillion. Who is it to benefit? The construction industry, the transportation industry, or all of America's new existing and potential industries? This is the Buy America provision.

We spent a lot of time in this committee working on that, not only here in this House, but also in the other house, and we have put in place the Buy America provisions that are much more broad than they were before the IJJA and other legislation went into effect.

So, what I want to really get to, Mr. Regan, if you could deal with this, is how the ancient 1983 broad waiver, which still exists in the Department of Transportation, how it conflicts with the law that we have passed, that is the Buy America provisions.

Mr. REGAN. Yes. It addresses—the waiver is on manufactured goods. So, it goes beyond iron and steel. And that should be repealed, because if we truly do want to use this type of investment to rebuild our manufacturing capability in this country, we need to have expansive Buy America protections across the board. But we also need to have expectations within the industry to know what is going to be required to be made here. And I think we need to have those definitions put in place very soon.

So far, we are still lagging behind, and I totally understand that it is a complicated process. It was a big expansion of the program, but we do need to put very clear definitions and timelines in place so the industries have an opportunity to respond and start reshoring some of that work.

Mr. GARAMENDI. I want to be very, very clear here; the 1983 waiver is a broad waiver. It basically says, with very few exceptions, everything can be waived. It is in direct conflict with the law that we passed. And while Mr. Firth correctly raised the issue, it is complicated. There are many different pieces to any construction project. However, that waiver, it should be repealed. And then we should simultaneously get about further definitions and clarification.

And so, Mr. Firth, if you would like to deal with the clarifications and along the line, I'll give you 30 seconds and will come back at other issues here.

Mr. FIRTH. Well, thank you for the question. It is confusing.

Mr. GARAMENDI. Indeed it is.

Mr. FIRTH. It really is. I don't know if, as a company, am I going to have to hire somebody to really sort this out as a, you know, what the rule really means. From a construction standpoint, I guess we believe that when we go to build something, Buy America should already be—or if it is a material or some type of gadget or whatever that we are supposed to implement into a project, it should already be spelled out for us, very clear. And I guess that is where the confusion is, is because we never know until it seems like at the very end, where it isn't. And then trying to find an equivalent to even get a waiver is very difficult.

Mr. GARAMENDI. Good. Department of Transportation, you must be here in the room. Be prepared to be banged on here until you get this squared away. Repeal the 1983 law and get about, simultaneously, the clarification that is necessary to implement the law that we wrote last year.

With regard to one other issue, in 18 seconds, Dusty Johnson, Mr. Johnson has stepped out of the room, but the Ocean Shipping Reform Act is in place. I understand he is going to pick up this issue and ask those of you that are at the ports, railroads about that law. And it was a nice bipartisan bill.

Thank you. I yield back.

Mr. GRAVES OF MISSOURI [presiding]. Mr. Rouzer.

Mr. ROUZER. Thank you, Mr. Chairman. I thank our panelists for being here today. I really appreciate the value of your input.

So, we often talk about the ramifications of COVID and mandatory shutdown of the economy and all the supply chain disruptions, but just for the sake of educational purposes, I want to go back pre-COVID: before COVID, when the economy was humming along pretty good, gas prices were pretty low, respectively.

What were your biggest supply chain challenges then? If we could go, starting with Mr. Spear all the way down.

Mr. SPEAR. I think our leading headwind is the shortage of talent. It was before COVID. We were roughly 50,000, 51,000 short on drivers; about 29,000, 30,000 short on technicians. That inflated to 81,000. Starting to tick down a little bit. We are at 78,000 short on drivers. I would say for all the other sectors of employment out there that are now post-COVID facing the same problem that we had before COVID, welcome to the show.

We really are stretched thin in terms of what we can do without people, hard-working men and women getting behind the wheel to move the freight. So, we are moving 72.5 percent of the domestic freight in this country. To grow that, you are going to have to put more people behind the wheel. So, it is going to continue to be a real issue for us.

Mr. ROUZER. Mr. Jefferies?

Mr. JEFFERIES. I think it is the ability to put dollars to work on projects and do it in a reasonable amount of time, in order to not only maintain and replace what might be older equipment, bridges, et cetera, or expanding into new facilities, new yards, really just incredibly long timelines for review, a lot of uncertainty there. So, lack of certainty and lack of timeliness of being able to put our dollars to work to maintain and grow capacity.

Mr. ROUZER. Mr. Firth?

Mr. FIRTH. For us it is probably going to be steel, whether it be rebar for the bridges that we work on or anything like that. Hitting rolling dates from the mills or whatnot, takes a little bit of logistics to make sure that you get your order in ahead of time.

Mr. ROUZER. Mr. Guenther?

Mr. GUENTHER. For ports, our port and most seaports I would say it is just—the supply chain is very asset based, from ships to ports to trucks to chassis to where they end up at a warehouse or vice versa. And when one link in that supply chain backs up, for us as seaports, it caused a lot of congestion on our ports with the inability to move them out quickly. Ports can't be storage facilities. They have to be transit facilities. And you saw ships backing up in Houston, on the east coast, and across the country.

So, just measures that may be more fluid to move cargo through ports. And we will have to continue to look at that, making investments in opportunities to get cargo out of our ports.

Mr. ROUZER. Mr. Regan?

Mr. REGAN. Thank you. Honestly, it was insufficient workforce levels at Class I railroads. It is a problem that continues today. And I appreciate the comments from my friend, Ian, about what they are doing to address it. But that was a problem before the pandemic and continued throughout.

Mr. ROUZER. Yes. Mr. Jefferies, going back to you, what are some current or proposed regulations being discussed that could negatively impact freight railroads' ability to respond to significant supply chain bottlenecks? And then, follow up to that, are there any deregulatory actions that need to be taken to help address the matter?

Mr. JEFFERIES. Well, to parrot my friend, Chris, how long do we have? I will keep it short.

So, a couple different things, and it is different parts of Government. I talked about the ability to put dollars to work. So, there are opportunities to build on the success of IIJA when it came to One Federal Decision to expand that beyond DOT-led projects. There are other opportunities to limit timelines and scope for other reviews through different agencies.

When it comes to our regulator, the FRA, as I said, deployment of technology is not only the next leap forward in safety, it is also the next leap forward in efficiency and increasing the ability to move more goods on what is a limited fiscal infrastructure. And we need a partner there. We need a partner that is going to work with us to build objective datasets in order to demonstrate that a new tool is resulting in a higher level of safety and allow that to be folded into the regulatory structure.

So, I wouldn't even say deregulatory. I would say regulatory modernization. Our economic regulator, the STB, is considering some rules that would increase the amount of touches, increase the amount of switches into the freight rail network. And that is the last thing you want to do. You want to go in the opposite direction for fluidity. Reducing employee risk is getting switches out of the network and allowing goods to move end to end with as few touches as possible. I am happy to get into that further, but just a few quick points there.

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

Mr. GRAVES OF MISSOURI. Mr. Carson.

Mr. CARSON. Thank you.

Congratulations to Chairman Graves and Ranking Member Larsen.

For the panelists, what is the most important thing in your mind—I know we have a committee agenda—but in your mind, that we should work on this year, and why is that your priority? And what specific changes should be made?

Mr. SPEAR. I think oversight. This being the first hearing, to really look at a \$1.2 trillion bill first year and implementation is a really good start. I think we all have a vested bipartisan interest in having a solid supply chain that isn't contracting in various points, and when it does, to collectively look at the problem and come up with real solutions. And I think we have demonstrated an ability, Government and private sector, to do just that.

I thought the Ocean Shipping Reform Act, the CHIPS Act, bringing it back, those sensitive items so that we can manufacture them here, ensures that we are going to have the capability to serve this economy long term. If there is anything that came out of COVID, it is really shining a spotlight on the weaknesses. I think the IIJA does a lot of potentially good things to solve that. Oversight of this law, not just this year, but in the coming 4 years, is going to be really, really important.

Mr. JEFFERIES. I would certainly echo that. Wherever you are on—whether you support it or didn't support the IIJA, there is an immense opportunity to put a lot of dollars to good projects. And so, I would say the hard part starts now, is how do the agencies get that money out in a merit-based, transparent, objective manner to make sure the impact of such projects is maximized, and how do you put that money to work as quickly and expeditiously as possible. This committee can really lead that charge in a bipartisan way.

I think we are all excited to hear the tone coming out of the heads of the committee here. You look around the room, you see all the prior leaders of this committee, all of them now. There are a lot of folks from different walks of life, different backgrounds, but I think getting back to the tradition of accomplishment and getting things done together will be key and allow this committee to be remarkably successful in supporting the projects that I have mentioned.

Mr. CARSON. No doubt.

Mr. FIRTH. I think for us from the contracting community, it would be streamlining the permitting process. As we get all the work from the designers and the owners and everything like that, concurrent reviews, something that can speed up the process to get the projects out the door. The projects all start with permits and, for us, that is where our biggest bottleneck is.

Mr. GUENTHER. Just further to what I have talked about before—from the IIJA, just staying on point with the operator maintenance. Talked a lot about channels, but also with highway infrastructure, it is landside, waterside, efficient movement of freight, and making those continued investments to make sure that the infrastructure side of the supply chain stays adequate.

Mr. REGAN. I think it is pairing the investments that are being made with really strong workforce development and training programs as well, to ensure that not only are we building our human infrastructure as we are building our modern transportation infrastructure, but more importantly, that once we are able to deliver on expanded services, new routes, things like that, that we have the workforce there ready and able to deliver the service that the people expect.

Mr. CARSON. Thank you. I yield back, Chairman.

Mr. GRAVES OF MISSOURI. Mr. Bost.

Mr. BOST. Thank you, Chairman. And I want to thank the panel for being here.

And, Mr. Spear, the trucking industry has recognized it is difficult finding safe parking, and you have elaborated a little bit on that, and it is a major challenge for professional drivers due to the lack of capacity. Your research and the institute has established drivers spend about 56 minutes each day searching for a place to be safe and park their vehicle. Now, this is clearly a major inefficiency in our supply chain. However, the problems can be fixed, and I thought we were going to get it done last year. This committee unanimously passed a truck parking bill out of this committee. It got to the floor, but didn't get anywhere from there.

Have you ever seen any issue, that is, such a time when we have a fix, we know what we need to do, we pass it, we can't get it through, and a time whenever we really need to get something done? And I have been around Government a long time, but watching something that is so much agreed on and then stalled, I am just going to ask you: Have you seen anything to that level?

Mr. SPEAR. I have, actually.

Mr. BOST. Yes. Me too.

Mr. SPEAR. But let's focus on this issue. And first of all, thank you and to the entire committee for this support. This is not a partisan issue.

Mr. BOST. No.

Mr. SPEAR. Anybody can drive out of the beltway here, and you will see trucks on on-and-off ramps resting. Why? Because they are required by Federal law to take breaks. And when those breaks come up and they don't have a place to park, they are going to look for the next best thing. So, this is a safety issue, not just to our drivers, men and women; it is also a safety issue for the motoring public. I am out there driving my car, my family, my kids. I don't want to tangle with our members. I don't think anybody else does either.

Getting them safe, secure, well-lit parking is a no-brainer. It is why then-Chairman DeFazio had \$1 billion in his bill. It didn't go anywhere. Your bill, I hope, bipartisan, start early, we are going to be out there pounding marble. We are going to be knocking on doors to make certain this gets done. This is a necessity.

And by the way, we have been really working hand and glove with the Secretary of Transportation and his team to tap into those discretionary moneys that he has under the IIJA to ensure that blocks that and States have access to it for truck parking. So, in the interim, while that legislation moves, we are going to be work-

ing with them to ensure that we are tackling the problem as well. I haven't confronted anybody on this issue that disagrees.

And by the way, we sent that letter up. That is a joint letter between ATA and OOIDA. That makes a statement. We are in this together. This is an issue that impacts whether you are an owner-operator, an IC, a full fleet, we all need more safe parking.

Mr. BOST. Thank you.

And on my next question, I want to go this route. And you know that I was born and raised in the trucking industry. I like to tell people I came home from the Marine Corps, ran a business for 10 years, loved it for 8. But I need you to expand, if you can—now, this is a State issue, but I want to bring it up here.

My brother works tirelessly to get drivers. He gets the drivers, gets them qualified, makes sure he wants to have them, and then because of State law now that has legalized marijuana, they can't pass the drug tests. And it is happening all over this Nation, and this committee needs to know exactly how much that is affecting the trucking industry. And can you expand on that?

Mr. SPEAR. Yes. The Secretary asked me what keeps me up at night, this issue: someone who is impaired getting behind the wheel of an 80,000-pound vehicle. You have got multiple States, over a dozen now, plus Canada, legalizing recreational marijuana. It is widespread. We are regulated by the Federal Government. We cannot have anyone impaired, using marijuana or any other narcotic, operating this equipment.

So, this channel conflict between the Federal rules and the States allowing it, this ambiguity is creating a litigious environment, and we are caught right in the middle of it. Somebody has got to step up to the plate and put safety first. You want to smoke weed at home, smoke weed at home. If it is legal, fine. Do not get behind the wheel of an 80,000-pound vehicle.

We need to have strong standards, and we need to enforce the law. And it is tough to say that because we are short 78,000 drivers. I want more of them coming in, but not if they are impaired. Can't afford that to happen. You hit a schoolbus full of kids, and they are impaired, that is on us. We have got to do better than that. So, this is an issue that, I pose to you all, we have got to work on.

Mr. BOST. Thank you. My time has expired. I yield back.

Mr. GRAVES OF MISSOURI. Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

One of the things that I think is a real asset to this bill we have been discussing this morning is that it pairs investment in workforce development with investment in sustainable fuels, green energy, environmental concerns. And I see that in Nevada. We have already got almost \$9 million through our RTC to buy electric buses.

So, Mr. Regan, could you talk about how that combination of workforce development and good energy policy through transit could be used in other Government agencies?

Mr. REGAN. Yes. Thank you so much for that question, because I think one of the really great developments that has come out of the implementation of this law was with the Low- and No-Emission Bus Program, where 5 percent of that money is required to go to-

wards workforce development. That is critical because, as I said before, making sure that we have the workforce ready and trained once these buses become available, but also we are making a pretty—it is a bigger transition than you might expect to change from a diesel bus to an electric bus. You do have to have specific requirements from a maintenance side and an operations side to make sure that we are fully prepared to deploy them into our communities.

I think that is exactly the type of model that needs to be used in other programs in infrastructure, because for too long, we have focused on the new shiny equipment or the new shining bridge without focusing on the people that are going to be critical to operating it, building it, and maintaining it.

Ms. TITUS. Thank you. I agree with that.

In addition to buses, we have been hearing a lot about two-man crews on railroads, and we hear about how the trains have—there are so fewer now than there used to be, so many fewer people working than there used to be, so many stock buybacks as opposed to supporting a workforce.

Isn't that kind of part of the problem with the supply chain, is the lack of personnel or qualified personnel or personnel that is stoned, as we heard, in trucks, that sort of thing? Could you describe that a little bit for us?

Mr. REGAN. Yes. I think there is a direct correlation between the workforce reductions that we saw in rail and the disruptions in service that we saw pretty severely over the last few years. And that has been pointed to by the customers from the railroads as well. If you go to the Surface Transportation Board hearings, a lot of trade associations, from agriculture, from energy, from chemical companies, pointed to the insufficient workforce numbers as the number one cause for why there were delays and why they couldn't move their goods to market. So, I do think that is a really pressing issue that needs to be addressed.

And when it comes to two-person crew, we support the Federal rulemaking that is underway right now. We are glad to see that this is being treated as a safety issue, which to us, it truly is. If you ask any one of our members who operate a train, the crew size is a vital safety issue to making sure that they can operate these upwards of 3-mile-long trains that go through every community in this country in a very safe manner.

Ms. TITUS. Well, thank you. And I will yield back.

Mr. GRAVES OF MISSOURI. Mr. Mast.

Mr. MAST. Thank you, Chairman.

My comments/questions today are primarily for Mr. Spear and Mr. Guenther. Speak a little bit about trucking, some of the issues related specifically—sorry. It is hard to see you around Mr. Owens' head right here. He is a big guy. I can barely see you over there.

Thanks, Burgess. I appreciate it.

So, talk about a couple of things on this. We identified as an issue in this way, when you are looking at goods coming into port—and by the way, I will pause and say I was glad to hear you talk about the 80,000 driver shortage. Not that I am glad that exists, but I was glad to hear you speak about it.

So, we look at goods coming into port and say, if those goods were taken out of port in some of these States, they could go from the place they were dropped off to somewhere else in the State, and you could have a CDL driver between the ages of 18 and 20. They, in some States, don't have to hit that 21-year-old threshold. But you can't have somebody take the goods out of port and then take them to somewhere else in the State if they don't reach that 21-year-old age threshold because of the interstate commerce that that is associated with.

So, I certainly don't look at this as an issue that solves, by any means, everything that is going on with trucker and driver shortage, but I would love to hear your thoughts on that specifically as a lane, adjusting the age for bringing goods out of port to other places in the State for CDL drivers between the age of 18 to 21 to add a little bit to that workforce. Would love to hear you guys comment on that.

Mr. SPEAR. Go ahead, please.

Mr. GUENTHER. So, thank you for that question, Congressman Mast. As one of the largest container ports in the country and one that is served primarily by truckers, we certainly—99 percent of the volume that comes to our port is by truckers, yes. We live by the fact that we think truckers have the right to make a good living. So, increasing the availability, that we saw in availability, that we saw to the pandemic, I think, certainly adds to and it is a good thing for moving cargo and commerce. We would certainly support that.

But somebody said earlier, as long as they were certified and trained and doing whatever, which I am sure they would be, I think any additional trucking workforce moving goods to and from our port would be welcome.

Mr. MAST. Thank you.

Mr. Spear?

Mr. SPEAR. Yes. I think the keyword there is "training." From our perspective, making certain that that block of talent can safely and responsibly operate the equipment, whether it is across State lines or not. We would want that in any of the 49 States. That was the beauty of the DRIVE Safe Act. I think you are working on legislation that is really intended to tap into this talent pool.

And we have an aging workforce, higher than the national average. As they exit, if we do not replace those drivers, that 78,000 is going to increase to 150,000 over the next 8 to 10 years. And that is unacceptable. Our ability to service this economy is going to be inhibited if we don't bring in new talent.

So, training them, leveraging technology, ensuring that they have the ability to competently operate this equipment, and grow in our industry. The pay is remarkable. It is averaging around \$70,000 with full benefits, without a college degree and all the debt that comes with it. So, we believe that this is a viable workforce of the future, if we can tap into that and compete. No differently than our military. And we train 18- to 20-year-olds to do the unthinkable. Hopefully they don't have to. I think we can teach young people how to operate this equipment safely.

Mr. MAST. Mr. Spear, I will make one other quick comment on this just reflectively, and if you have a response, by all means give

it. But we are the tradesmen committee. We deal with building things vertically, horizontally. Tradesmen of all kinds. If somebody were to get into one of those trade programs to be a journeyman for X, Y, Z coming right out of high school, the fact of the matter is, it is less likely that that is going to be their pursuit: trucking and moving our goods. But if somebody has that same availability at the same level at that age, then you are probably going to get to capture more individuals, instead of them moving to one of the other journeymen professions, hypothetically?

Mr. SPEAR. Yes, absolutely. And I think the apprenticeship program, the national apprenticeship program that was put forth by the Biden administration—we worked for 4 years with the Trump administration to produce this product. We finally got it done. This is the gold standard of training. Any company, any member of ours that amplifies apprenticeship programs that are nationally registered, that is the gold standard. It shows that that employer really is focused on training, giving that employee the skill sets that they are going to need to be successful long term.

So, I think replicating that is a no-brainer, and we are really, really pleased to have that national Registered Apprenticeship Program up and running.

Mr. MAST. Thank you, Mr. Chairman.

Mr. CRAWFORD [presiding]. Thank you, Mr. Mast.

Ms. Wilson, you are recognized.

Ms. WILSON OF FLORIDA. Thank you. Thank you, Chair Graves and Ranking Member Larsen, for holding today's hearing.

As founder and chair of the Florida Ports Caucus, the state of our Nation's infrastructure and supply chain have long been among my top priorities because of their impact on jobs. As a newly elected Congresswoman in 2011, I created a door sign that read: "Today marks"—and the number of days—"without the passage of a jobs bill."

It took 3,970 days, or more than 10 years, but finally, under President Biden's leadership, Congress finally passed a landmark, Bipartisan Infrastructure Law that supports the level of job creation that I long sought. The Bipartisan Infrastructure Law, along with the American Rescue Plan and Inflation Reduction Act, delivered the resources to rebuild our infrastructure and address the supply chain crisis.

I am especially proud to have been one of five Members selected to cosponsor this historic infrastructure bill. Consequently, Florida is receiving \$18 billion to update our highways, bridges, transit, seaports, and airports.

Chairman Graves and Ranking Member Larsen, I look forward to working with you on a bipartisan infrastructure legislation.

With that, I have a few questions.

Mr. Regan, thank you for bringing attention to the bridge improvement projects authorized by the IIJA. In my district we have Broad Causeway Bridge, which connects mainland Miami-Dade to various cities on the beaches. The Broad Causeway is looking to use that funding to update the bridge and increase accessibility.

Can you explain how discretionary grant funding has benefited the men and women of the TTD?

Mr. REGAN. Yes. Thank you for that question.

The grant programs—and we are starting to see the money really flow now—are just critical towards advancing especially the building and construction trades that I represent.

But the bridge programs in particular, you look at the number of structurally deficient bridges around this country that have been highlighted by the American Society of Civil Engineers, I mean, we need—this is a—it is an epidemic in this country that we have so many bridges that are not safe to drive on right now.

And getting this money out quickly and getting it with expert union workforce operating on these bridges is going to be critical to making sure that we have both a more efficient, but also a safer system in this country.

Ms. WILSON OF FLORIDA. Thank you.

Mr. Firth, you stated in your testimony that without the IIJA, States would have to cut roughly 20 to 30 percent of their projects.

Can you provide examples of the projects that you were able to complete because of the IIJA grant programs?

Mr. FIRTH. We haven't had any IIJA projects yet. We anticipate, though, here in 2023 that they will be coming out. So, I don't have any examples for you.

Ms. WILSON OF FLORIDA. OK. Thank you.

Mr. Spear, in your testimony you mentioned years of infrastructure neglect. Can you highlight how the IIJA has improved working conditions for drivers?

Mr. SPEAR. Well, I think, as I mentioned, congestion is a significant concern, not only in terms of the \$75 billion that we lose just sitting idle, but the amount of time a driver spends sitting idle. That is a lot of time to think about maybe doing something different with their life.

Moving goods from A to B efficiently is good. It burns less fuel, it is less emissions, it gets the product where it needs to be. That means we also pay less for it. So, inflation goes down.

But the impact that it has on the driver, I can't think of anything worse, maybe even the dentist, that I would rather not do than sit in traffic. And 425,000 drivers sitting idle for an entire year, that is unacceptable.

So, the IIJA has the potential to really target those top 100 bottlenecks and find ways to alleviate that, get the trucks moving, whether there are more lanes, but get the cars and trucks moving. That is going to be a huge factor.

Ms. WILSON OF FLORIDA. Thank you.

I yield back.

Mr. CRAWFORD. Thank you.

Mr. Burchett, you are recognized.

Mr. BURCHETT. Thank you, Mr. Chairman.

I have some very hard-hitting questions on COVID, but I realized I am not in the Oversight and Accountability Committee right now. So, when I get to the Oversight and Accountability Committee, I will ask some hard-hitting transportation questions, Mr. Chairman.

And I do want to thank you all. And I always wonder why we always thank you all for holding these meetings when it is your dadgum job to hold these meetings. I mean, I don't understand

that. That is probably why I am not at the schmooze levels that some of these other guys are. But, anyway, take note.

Mr. Firth, you stated that Federal agencies under the Biden administration are systematically reversing streamlining reforms to the National Environmental Policy Act and are introducing additional requirements to delay infrastructure projects.

I am wondering, do these changes by the administration increase these project costs?

Mr. FIRTH. Absolutely. The longer that the permitting process goes on, it is less projects that are getting out to be constructed. That is where different risks as a contractor we have to be thinking about when it comes to the permitting process.

Projects for me, working in the Pacific Northwest, for instance, I will give you the example, fish windows for us. So, we have to work in the water, say, from July to October. When those projects are being developed, they are usually having to get out to bid, say, 2 months before right now, so, in the fall. And if for some reason that permitting process gets missed or whatnot, it might delay the project another year or whatnot.

So, I don't know if that answers your question.

Mr. BURCHETT. It does.

Why do you think these bureaucrats are making it so difficult for working folks to complete these infrastructure projects, just out of meanness or justifying their job? I don't know. You tell me, brother.

Mr. FIRTH. I don't have an answer, I guess.

Mr. BURCHETT. You're afraid to answer? Afraid to get a project delayed?

Mr. FIRTH. Yes.

Mr. BURCHETT. See my buddy Sullivan back there, he is not smiling. He is like, "Oh, crap, Burchett, don't say anything else."

Well, could the environmental permitting reform speed project delivery or lower project costs and still protect the environment?

Mr. FIRTH. I think so. I think there is definitely an opportunity there for concurrent reviews and having both sides work hand in hand. I guess one thing that I always think about is, is that we need the permits to build the projects. So, in order to get all this done there has got to be a little bit of give and take. So, yes.

Mr. BURCHETT. All right. I will let you off the hook for a little while. How about that?

Mr. FIRTH. Thank you.

Mr. BURCHETT. You are welcome.

Mr. Spear, you like to talk. I am going to give you an opportunity again.

I am concerned that this administration's EV charging programs could discourage private investment and would increase electricity prices for our ratepayers. And it would leave drivers waiting in remote parking lots and rest areas.

What are your thoughts on that?

Mr. SPEAR. I think we need a realistic timeline. That starts with an honest discussion. I really do. I think that this rush to net zero is missing a lot of key elements that we all need to be talking about.

Let's just say that we have all the infrastructure across the country to charge. Let's just say right now that it is all in place. Where

is the power going to come from that goes into the charging stations? Nobody seems to want to talk about that.

We will consume, just our 4 percent of the vehicles on the road, will consume 40 percent of all power to charge.

Mr. BURCHETT. In Tennessee it comes from nukes, coal power, and hydroelectric.

Mr. SPEAR. Wherever. But it has got to happen.

Mr. BURCHETT. Yes.

Mr. SPEAR. If you are going to have the power to go into it, if you are going to make us do this, then we are going to need the power. But also, beyond that, where do the minerals come from for a 5,000-pound battery?

Mr. BURCHETT. Slave labor, mostly.

Mr. SPEAR. Child labor.

Mr. BURCHETT. I have another question along those lines. I wonder, do you feel like when we did this rush to do this, this Government was going to put all these charging stations. And in my area I worry about the entrepreneurs, the mom and pops who built these truckstops and gas stations and invested their hard-earned dollars, and now yours and my tax dollars are going to put something out on the interstate somewhere that is unsafe, unregulated into—well, overregulated by the Government, and not very well thought of.

What do you think?

Mr. SPEAR. Look, I think that the markets have to dictate this. Markets reflect reality, and these timelines that we are facing don't. And we need an honest discussion about getting there.

Because what is going to happen when we get to these timelines, like California, 2035, that is 12 years away? It is going to fail. It is going to be embarrassing. They are going to be issuing all these exemptions because they rushed to zero and didn't take into account all these realities.

And what I am saying to you is, we are going to get there eventually, let's just be realistic about it. And I think what we are dealing with right now is impactful on the supply chain and what we pay, inflation, because we are not going to be able to deliver the goods because we don't have the equipment to do it.

Mr. BURCHETT. My time is up. Mr. Chairman, I yield back no time.

Mr. CRAWFORD. I would love to yield you another 5 minutes just for the entertainment value, but I need to go to Mr. Carbajal.

Mr. BURCHETT. Our ratings would go way up. I understand now two people are watching this back home.

Mr. LARSEN OF WASHINGTON. And I would object. And I would object.

Mr. BURCHETT. I know you would, Mr. Chairman—Mr. Ranking Member. Excuse me.

Mr. CRAWFORD. Mr. Carbajal, you are recognized.

Mr. CARBAJAL. Thank you, Mr. Chair.

Mr. CRAWFORD. Correction. I am sorry, Mr. Carbajal. Mr. Payne is actually next.

Mr. CARBAJAL. I thought I was getting ahead. Thank you.

Mr. CRAWFORD. So did Mr. Payne.

Mr. PAYNE. I got worried there for a minute.

But thank you, Mr. Chairman.

And I would like to thank Chairman Graves and Ranking Member Larsen for their leadership.

And just a quick note. Mr. Spear, Mr. Jefferies, I am glad the point that you made in reference to trucking and rail working together. I need you to think about this as a relay team, as opposed to an adversarial relationship. The rail has the baton, and they pass the baton to the trucking to get to the finish line. So, please let's look at this in that manner.

I appreciate you calling this hearing today so we can examine the challenges facing our transportation network. Last year, the Railroads, Pipelines, and Hazardous Materials Subcommittee held two hearings to examine rail service delivery problems.

The Surface Transportation Board held an emergency 2-day hearing on freight rail shipping delays and their impact on Americans. Rail shipping delays over the past years have resulted in shortages in the agriculture and energy sectors. Freight railroads have halted shipments to certain parts of the country because they lack the capacity to provide adequate service.

As a result of these problems, the Surface Transportation Board has had to issue emergency service orders and service recovery plans to ensure that freight railroads are serving their customers.

Mr. Jefferies, a yes or no, please. Do you feel that freight railroads have enough workers to handle the current demand for rail shipping?

Mr. JEFFERIES. Well, certainly that has been front of mind over the past year. And you are right, we certainly had significant service challenges over portions of the last few years.

Mr. PAYNE. So, is that a yes?

Mr. JEFFERIES. I am getting to that.

Mr. PAYNE. Well, that is really in the interest of time.

Mr. JEFFERIES. Sure thing. We have been hiring aggressively over the past 18 months, and we continue to hire in certain regions around the country, so, we are still leaning into that and those efforts still continue.

Mr. PAYNE. Thank you.

The Surface Transportation Board says that long-haul intermodal truck traffic has grown 20 percent more than rail. Between April and September of 2022, the four big railroads added just 420 total train and engine employees—420—an increase of less than 1 percent.

Mr. Jefferies, we will try it again. Yes or no, are the railroads scaling back hiring plans due to softening demand?

Mr. JEFFERIES. We continue to hire as we stand here today and that number is actually 9 percent year over year when it comes to employee increases of T&E.

Mr. PAYNE. So, you are saying it is more than 420?

Mr. JEFFERIES. I am sorry?

Mr. PAYNE. You are saying it was more than 420?

Mr. JEFFERIES. I am saying that.

Mr. PAYNE. OK. We will check that.

And with the time I have remaining, I would like to ask Mr. Regan, who represents these workers, if his members shared the assessment of the state of the freight railroad industry. And if not,

how do the men and women working for freight see the state of their industry?

Mr. REGAN. Thank you for the question.

I think, as we saw very clearly last year, the morale among freight rail workers has never been lower, at least in my experience. They are frustrated, they feel overworked. A lot of the focus on attendance policy, and, yes, sick leave and other issues, I think are a direct result of the insufficient workforce levels.

I think if we are able to deal with some of those and continue to improve on some of the gains that were made in that contract that was resolved, I think that we will start to turn the industry around.

And I assure you, nobody wants to see a growing, more robust freight rail industry than the members that I represent. They are proud to be railroaders and they want to continue to do it, but they need to see a change in the operating mechanisms right now, in the operating systems, so that they can return some degree of quality of life to their work.

Mr. PAYNE. Thank you.

And with the few seconds that I have left, I would be remiss if I didn't mention that I am going to continue the effort. It is good that the salaries went up fivefold, but that was not what the workers were asking for. They were asking for sick time, and that is something that we need to address.

It is great that their incomes have gone up, but they were interested in sick time, as probably all of you sitting at that panel have in your capacities, in your positions. And they deserve it as well. And I will continue to fight for that.

And with that, I yield back.

Mr. CRAWFORD. Thank you.

Mr. Garret Graves, you are recognized.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

Thank you to the witnesses for being here today.

It has been interesting. Last Congress, we had the infrastructure bill and we spent, gosh, I think 24 hours or so in this committee marking up a bill that, with the exception of a handful of provisions, was largely ignored and a Senate bill became law.

There is no question we have a supply chain problem. There is no question we have a labor shortage. There is no question that we have inflation issues. There is no question that what is happening with energy prices is having a profound impact on your industry, on the ability to carry out logistics around the United States and around the world.

But when I look at legislation like the IIJA, the infrastructure bill that became law last Congress, I look at things like mandates on trying to transition us to electric vehicles. I look at simple math problems where you literally could not produce enough minerals to develop the battery storage or the electric engines or other things that are required under the bill. And then I look at the problem we are having in supply chain right now where we are not investing in roads because funds have been diverted to EV charging stations or other things.

And the reality is that the legislation has exacerbated the problem that you are already experiencing in your industry: trying to get goods around the United States and around the world.

And so, one of the things—and I know the chairman shares my concern—is that we are going to be looking at kind of how to recalibrate that bill and reprioritize the dollars in places where they are actually needed to complement your efforts to address supply chain issues and again try to address the worker shortage and other challenges that we have.

I want to—I am going to take the conversation a little different. One of the things, I think, lessons we have learned from what has happened with energy over the past couple of years, we have moved in a direction first that made us more dependent upon Russia for oil, and that hasn't worked out so well. Now looking at where we are being forced into a renewable energy direction.

And I want to be crystal clear, I support renewable energy technologies, I support reducing emissions, but I also support doing it in a way that makes sense. And what we are doing right now is we are forcing greater dependence upon countries like China.

And I am curious if any of you have thoughts on how we should be looking at this a little bit differently. For example, looking at NATO or NATO Plus as more than just a military organization, looking at it like a supply chain and an economic alliance as well.

And that way we have more secure, more allied resources that we are dependent upon, and we are not subjecting ourselves to the volatility of some of these countries that we are not friends with, that are simply going to use their resources as leverage, as we have seen China do with some of the critical mineral markets they have cornered around the world, including processing and refining of those minerals.

Anyone?

Mr. SPEAR. I think sourcing is key. If you are going to build out a transition to an alternative source of energy, say electric, those batteries are going to have to have the minerals. And it is not coming from China, it is not going to come from Congo. So, where are we going to get them? It is going to have to come from here in North America.

So, these are key questions, and they take time to develop, not just 12 years, but beyond. And we are fine in transitioning to that as the market dictates. I think there has to be some give and take with that. Rushing to zero is going to cause havoc within the supply chain and economy if we are not careful about it.

But I hear what you are saying about friends. You are creating good trade relationships. We haven't seen too many trade agreements come down the pipe lately. And I think we really need to focus on shoring that up.

If we are going to transition away from China, we are going to have issues with Europe, certainly about sourcing in Africa, then we need to have better, stronger trade agreements that allow us access to these minerals and can manufacture sensitive things here at home. That is going to be very key.

Mr. GRAVES OF LOUISIANA. Thank you. And I want to make note that you said transitioning to zero is effectively going to be painful. And I want to make note that the United States has led the world

in reducing emissions. For every ton of emissions we have reduced, China has gone up by four. We are not headed in the right direction. All we are doing is penalizing the U.S. economy at the same time.

Anyone else?

Mr. JEFFERIES. I would align my comments with Mr. Spear's that energy security is all about working with trusted allies, stable allies, and identifying trusted sources for the materials we need.

We all, I think, are headed in the same direction when it comes to reducing emissions and alternative forms of energy. But while we work on that path, we have got to maintain stable, trusted resources for the fuels that supply us today.

Mr. GRAVES OF LOUISIANA. Thank you.

And I know Mr. Stauber is probably chomping at the bit looking at this forced direction into renewable energy technologies, while at the same time shutting down two mining operations in Minnesota, one in Arizona. It seems entirely incompatible or even contradictory with the objectives of the legislation and some of the stated commitments in terms of targets and reductions. So, we certainly need to be thinking about this a little bit differently.

I yield back.

Mr. CRAWFORD. Thank you, Mr. Graves.

Mr. DeSaulnier, you are recognized.

Mr. DESAULNIER. Thank you. And I will say thank you to the chair and the vice chair for having this hearing.

The context of my comments, I want the panel to realize and my colleagues, it is in getting this investment right, who benefits from it. I am not against private equity getting a reasonable rate of return. It is an important partnership. But I would argue that right now we are at the most historical divergence between capital as a percentage of GDP and wages. So, we have got to reduce that and create a new middle class that President Eisenhower championed.

So, that context, on the air quality side. Sorry my colleague left. As a former air regulator in California, I am one of those bureaucrats. I think we were motivated—and I was a Republican at the time—by doing what the Clean Air Act said, which was signed by a Republican California President, Richard Nixon, and updated by a Republican California President that created the waiver, the California waiver.

So, this isn't 12 years in the future, as I look at it. George Deukmejian, who was Governor in the 1980s, a Republican conservative, he introduced a zero-emission vehicle.

So, Mr. Spear, you know that we have been working at this for a long time. The challenges are not unknown to California. Most of the reductions that my colleague just referred to came because of the California waiver and the 12 or so States who join us under that waiver.

So, in that context, Mr. Spear, you mentioned President Eisenhower. One of my favorite quotes by President Eisenhower, he said: "Only a fool would try to deprive working men and women of the right to join the union of their choice." And President Eisenhower said that when GDP was at historic records because we were building an amazing middle class.

So, President Reagan—another President Reagan—started cash buybacks or started the acceleration on open-market buybacks.

So, what is the right rate of return for an investor and a taxpayer and an employee, a worker, a union worker under Davis-Bacon, for Congress to be looking at? And this is in the context of—and I am not specifically saying rate of return, I would just like you to talk about your members and the multiplier.

As a former small business owner, the multiplier for every one of your jobs, if memory serves me, is about 13, 14, which all goes out to small businesses in rural and urban areas.

So, it is really important that your investors get a reasonable rate of return, but that Main Street gets a reasonable rate of return, if we are going to rebuild that middle class.

So, just for instance, the rail industry has had more open-market cash buybacks in 2021 than ever before, you are more profitable than ever before. Granted, you are a semi-utility, so, the profit margin is smaller. But there is historically supposed to be low-risk, reasonable return, not low-risk, high return, from my perspective.

Chevron, which is headquartered, back to the environmental question, in my district, has a lot of employees. They just did \$75 billion in cash buybacks on the back of inflated gas prices during COVID. That is not going back in the refinery in the county I represent. That is going off.

UP did \$4.6 billion in cash buybacks in 1 year—no, wait, \$4.6 billion in payroll and benefits, but they did \$6.3 billion in cash buybacks.

So, Mr. Regan, could you talk a little more about what you said in your introduction about the balance between returning that investment to the workforce and capital investment in the infrastructure versus it going back to the shareholder at obscene rates of return?

Mr. REGAN. Yes, thank you for that question.

I think that as we are looking at investing, especially the sums of money we are talking about right now with the Infrastructure Investment and Jobs Act, we should be using it as an opportunity to rebuild the middle class and ultimately to invest in the people in this country.

And to your point, when people have a stable wage, when they have a middle-class wage and good benefits, they are returning that money into their local economy. They are spending it at their local stores, at the local small businesses. They are sending their kids to college. They are doing all these things because they have the opportunity, they have a wage that allows them do that.

And when you look at certainly a lot of the industries that I represent, even the private sector, we are the antidote to this idea that unions kill businesses.

Look at the airline industry where they were at the highest profitability they had been in their history before the pandemic, and that is 85, 90 percent unionized right now. Railroads are at the highest profitability they have been in the history of railroading. They are wall-to-wall unionized.

We can be really good partners in advancing a better system, but we also are going to expect that our members are paid fairly.

Mr. DESAULNIER. Thank you, Mr. Chairman. I yield back.

Mr. CRAWFORD. Thank you.

Mr. Stauber, you are recognized.

Mr. STAUBER. Well, thank you. Thank you very much. Great conversation.

I know the supply chains have been really a big issue, in particular under this administration, and the decisions thereof.

And I want to say great work to all of you for doing what you need to do, making the decisions that you need to make to overcome this.

Mr. Graves was talking about supply chains and with respect to critical minerals. But before I get into that, Mr. Spear, I just have to make a comment.

I appreciate what you said. Three weeks ago, a friend of mine took his brandnew electric pickup truck down to the Vikings game, U.S. Bank Stadium in Minneapolis. Plugged it in on a charger during the game. Unfortunately, we lost. He lives 164 miles north of Minneapolis. He had to stop twice for 45 minutes each to charge his vehicle. So, it took him 2½ times the travel time to get home.

To your point, we have to link that conversation. And in linking the conversation, we have to talk about critical minerals and supply chains.

The Duluth Complex, located in northern Minnesota, has 95 percent of our Nation's nickel reserves, 88 percent of our Nation's cobalt reserves, over one-third of the copper and other platinum group metals. This administration just banned mining in northern Minnesota for 20 years.

Mr. Regan, they are my friends, they are union jobs, project labor agreements. Where are we going to get these? And I am telling you what right now, I think you all know this, our adversaries that control the critical minerals, it is going to dry up for us. They are not going to sell. They are going to pinch the United States, and we cannot get these mines up overnight.

So, I am asking your industry to push back against this anti-mining stance from this administration.

And it is not only in northern Minnesota—where, by the way, we have mined taconite, that makes over 80 percent of the iron ore—or 80 percent of the steel in this country, which is a national security and a strategic national security interest to build our roads and bridges.

We have to bring that sourcing back. I hear everyone during their testimony and reading their testimony. We have to control the destiny of this country in the palm of our own hands with the natural resources that we are blessed with.

We have an administration, in October of 2020, then-candidate Joe Biden said we are going to mine these critical minerals domestically. What? We thought that was awesome for northern Minnesota, awesome for our miners across this country.

What did he just do? He took out the opportunity to mine these minerals here under the best environmental standards and the best labor standards.

Just over a month ago, he signed a memorandum of understanding with the Congo, which has 15 of the 19 mines owned by the Chinese Government. This is where we are supposed to get our critical minerals? Give me a break.

This is a dangerous administration to our country when it comes to supply chain and critical minerals and mining. The anti-jobs and anti-mining stance has to stop. And you, I am asking you and your associations to help. As an association, push back on this anti-mining stance, push back on us relying on adversarial nations for our critical minerals and their processing.

And we talked about reforms. Should it take 10 years to build a bridge? Should it take 10 years to build a bridge in California, Minnesota? Should it take 20 years to open up a mine in northern Minnesota? In the same watershed the country of Canada, our friend, opened up a gold mine, same watershed, in 3 years.

Please do your part and push back. I will help you advocate for that.

We lost multigenerational union jobs because of that political decision. Didn't even let an environmental impact statement move forward—that is the process—for political reasons. Killed great-paying jobs for my constituents.

So, I am asking on behalf of the mining community, on behalf of our strategic national security, you have a voice in this, and join me.

And I yield back.

Mr. CRAWFORD. Thank you.

Mr. Carbajal, you are recognized.

Mr. CARBAJAL. Thank you, Mr. Chair.

Mr. Regan, we know that to maintain a healthy supply chain we need to continue to support the Jones Act, cargo preference, and Maritime Security Program. The pandemic was a perfect example of the need to move away from relying on foreign carriers and mariners.

As chair and now ranking member of the Coast Guard and Maritime Transportation Subcommittee, I have been a supporter of bolstering our U.S. maritime sector.

Can you expand on the benefits of enforcing and expanding the programs that bolster the U.S. maritime industry, including the Jones Act, cargo preference, and Maritime Security Program?

Mr. REGAN. Thank you so much for the question.

You just named the three-legged stool that keeps our maritime system afloat as it is. But even with that, we have over 98 percent of all goods that go into and out of U.S. ports are shipped on foreign-flagged vessels. We have simply ceded away any sort of sealift capacity to our competitors.

And we see, frankly, the consequences of that when, for example, we are trying to get goods out, there is a shortage of containers, there is a shortage of space on board ships, and they are not taking our goods.

What we need to be doing is instead of trying to whittle away at these programs like cargo preference, we need to be fully enforcing them. We need to be advocating for more U.S.-built vessels. We need to be advocating to ensure that every time we are shipping goods overseas on the Government dime that we are doing it on a U.S.-flagged vessel with U.S. mariners.

Because once we do that and we start expanding their capacity, we are going to generate more business and we are going to grow

the mariner population, and we will be more competitive and less reliant on foreign shipping conglomerates.

Mr. CARBAJAL. Thank you.

Mr. Regan, I continue to read industry reports about the ongoing mariner shortage and the lack of new mariners entering the industry. This is obviously an issue of deep concern.

Simply put, the current mariner shortage is a national security issue, as you pointed out as well, and that the Department of Defense cannot do its job if the maritime industry cannot supply enough mariners to support the DoD sealift readiness capacity for contingencies such as global conflicts.

While I understand that the core of this issue has to deal with recruitment and retention, what can Congress do in the short and long term to shore up the pool of qualified mariners working in the industry?

Mr. REGAN. Thank you.

In the short term obviously we need to invest in the training schools that are out there. It does take 10 years for an entry-level mariner to become a chief engineer or a captain. So, there is a growth period there.

But one thing we can do to attract more people into the industry certainly is to improve the onboard experience for mariners, so that we have to have better connectivity so people can speak with their family, better access to internet.

We also need to make sure that it is a safer environment. I think there was a lot of publicity about some really horrific sexual assault allegations that happened on board ships, and that has absolutely no place in the U.S. maritime industry.

And if we don't address some of those problems, and I know the unions I represent are focused on making sure that that never happens again, we are basically casting aside half of our population who would be potential mariners for what is a very good job, one you can go see the world with.

And so, we need to make sure it is a safer, better workplace for everybody.

And then, finally, I think we need to invest in more opportunities so that there are options for shoreside work for employees so that we can have a continued pool of mariners that are available to operate on ships but continue to do that work if there are not opportunities at that very moment.

Mr. CARBAJAL. Thank you. I was going to ask you to say shore-side 10 times, but I won't.

Mr. Regan, while the Bipartisan Infrastructure Law provides over \$60 billion in Federal dollars for rail infrastructure, I know we need to do more to improve passenger rail and freight rail services.

In your testimony, I know you highlighted the need to invest in workers. Can you delve into what that means, what you mean by that?

Mr. REGAN. Yes. I think, again, going back to what I said earlier about making sure that we are investing in the workforce while we invest in expanded services. And I certainly believe that the money that was invested into Amtrak through the infrastructure law is going to be the catapult to get us towards a true national passenger rail system and one that is more efficient and a better op-

tion for people in communities large and small. But we do need to have a workforce to be able to do that.

I am very happy to see that Amtrak is aggressively hiring. They had a goal of 4,000 people in fiscal year 2023 in order to hire that many new people into Amtrak. They hired over 3,000 people last year.

When I talk to Stephen Gardner, the CEO of Amtrak, that is the number one thing on his mind, is how do we hire more people into the railroad.

And so, I think that as we start doing that and demonstrating this is another really good middle-class job, we will have the workforce to make a passenger rail system that we can be proud of in this country.

Mr. CARBAJAL. Thank you, Mr. Chairman. I am out of time. I yield back.

Mr. CRAWFORD. Thank you, sir.

Mr. Nehls, you are recognized.

Mr. NEHLS. Thank you, Mr. Chairman.

I would like to thank the witnesses for being here today. I think this is wonderful. We are all together, meeting in person. Just what a treat that is.

And it is no secret that the transportation sector has experienced a series of supply chain issues, some resulting from the pandemic and others obviously resulting from the policies of this administration.

And so, Mr. Guenther, certainly good to see you, sir. Good to see you this morning.

My question to you is from a port perspective. What is the best investment we can make today to minimize another supply chain crisis in the future?

Mr. GUENTHER. Thank you for your question, Congressman. Talked about it a little bit today, making those investments in the channel again and the operation and maintenance, but also making the investments of future development of our ports and waterways.

So, we talk about seaports are a critical link, they are served by the waterside with our channels but also on the landside. And looking for those opportunities to continue to grow to efficiently handle our cargo is very important.

And it was mentioned earlier about the IIJA and the amount of funding that has been made available in the last \$2 billion, I believe, in fiscal year 2022 and \$1 billion in fiscal year 2023. But to maintain our channel, for instance, we have got \$12 million for the Houston Ship Channel.

So, we have to emphasize, if I answer your question, we have to emphasize the important things, whether it is on the waterside, whether it is on the landside, to make sure that we keep freight moving.

Mr. NEHLS. Yes. And in your testimony it says that the Houston Ship Channel has been underfunded by 50 to 60 percent as it relates to O&M dollars. Is that correct?

Mr. GUENTHER. That is correct.

Mr. NEHLS. All right.

It is my understanding also that draft restrictions are going to occur in March. What changes do I and others of the Houston dele-

gation, Houston Members, need to be aware of to prevent this from happening again? In other words, what is the long-term fix for this issue?

Mr. GUENTHER. Well, the short-term fix is inevitable. We talked about it, hey, do we throw money at it to fix this? But the long-term solution is looking at the need based upon the tonnage that is served by these waterways, like the Houston Ship Channel, and making sure that those dollars are invested to keep the channel maintained to its authorized depth and width, and we have to do that.

Mr. NEHLS. Thank you, sir. I can assure you that you have my attention.

Mr. Jefferies, I would like to zero in on regulations affecting the rail industry. Often we hear about automated technologies in the transportation sector with media coverage and attention given to the other industries, like the autos and drones.

In your testimony you mentioned ATI, which is automated track inspection, has resulted in some instances more than a 90-percent reduction in the rate of unprotected main track defects found.

So, my question is, how is FRA preventing railroads from implementing these kinds of safety-enhancing technologies? And can you provide some examples, sir, how this sort of technology reduces supply chain issues?

Mr. JEFFERIES. Sure, that is a great question.

The role of a safety regulator should be pretty simple: to advance safety, to advance safety in an objective, data-driven, transparent way, not to call in political favors, not to play politics, not to seek other outcomes.

And we are running into roadblocks in deploying technologies and advancing innovation in this industry that has undeniable safety benefits.

Automated track inspection allows a railroad to inspect vastly more track, with a vastly higher level of frequency, with a vastly more sensitive technology that allows for detecting potential defects before they become issues at upwards of a 90-percent higher rate.

Undeniable safety benefits. So, you would think the regulator would welcome that. Well, why are we in litigation to be able to expand that test program—test program—to continue to build out the data set, to eventually roll it into the regulatory requirements, again modernizing the regulatory process?

Two, the crew size NPRM has come up. Again, the role of a safety regulator should be to advance safety. There is absolutely no data in that NPRM to support the rule moving forward, there is no safety outcome. And if it is a safety issue, why doesn't it apply to passenger railroads?

Mr. NEHLS. And I am looking forward to hearing more.

I am going to end with this. It doesn't get much attention, but I think it is relevant since we are discussing supply chain issues.

Bathroom access for truckers. I said, what the hell do you mean, bathroom access for truckers?

Folks in the room, imagine you went to the office and you are there after a long commute. And you said, I would like to use the bathroom. And they say, sorry, it is not available, you are going to

have to hold it for a couple of hours. It makes no sense to me. I thought it was ridiculous.

So, we partnered with Representative Houlihan and OOIDA and Women In Trucking on the Trucker Bathroom Access Act to get this figured out. I encourage my colleagues to support this bipartisan legislation that ensures our truckers have access to a business' restroom when they are making a pickup or delivery.

I am kind of smiling here. I said, I can't believe Congress has to address this issue.

Again, it is bipartisan, just plain common sense. I will do everything I can to ensure this bathroom bill becomes law.

Thank you. And I yield back.

Mr. CRAWFORD. Thank you.

Mr. Stanton, you are recognized.

Mr. STANTON. Thank you very much, Mr. Chairman.

As we continue to implement the Bipartisan Infrastructure Law, few States stand to benefit more than my home State of Arizona.

For the communities I represent, one of the top infrastructure priorities for years has been the expansion of Interstate 10. I-10 connects Arizona's two largest cities, Phoenix and Tucson, and tens of thousands of people commute along it every day.

But more than that, it is also a key commercial artery for freight traffic to and from the ports in southern California and for international commerce with our largest trading partner, Mexico.

But despite being such a vital connection for freight and commuter traffic, there is still a large section, 26 miles, that is only two lanes.

Every Arizonan who has taken I-10, myself included, will tell you that these two lanes are not enough. It causes heavy congestion and daily bottlenecks, and a single crash or disabled vehicle can back up traffic for many, many miles.

Not only is that inefficient and costly for people doing business, it is a serious public safety concern.

The need for expansion is clear, but despite a substantial non-Federal investment by the State and support from the local Tribal and business stakeholders from across the region, we were disappointed and, quite frankly, very frustrated not to receive Federal funding under the Bipartisan Infrastructure Law's Mega grant program to finally complete this critical project. And when 90 percent of the Mega grant funds were directed to projects east of the Mississippi, I can tell you, Arizonans and our regional partners feel left behind.

Like many States, Arizona cannot meet its growing needs, including on projects of regional significance, like the I-10 expansion, on its own. We need Federal support. We need a Federal partnership.

It is clear to me that the allocation for Mega grants is not enough to advance many projects like an I-10 that must get done. It is my hope and expectation that I-10 will receive Federal support necessary to get its expansion across the finish line.

My question is for Mr. Spear from the American Trucking Associations.

Mr. Spear, good to see you.

Mr. SPEAR. You too.

Mr. STANTON. I understand the ATA strongly supported the IJJA and that the American Transportation Research Institute works with the Department of Transportation both to identify key points of congestion along our Nation's highway system and to quantify the impact of that congestion.

Given the enormous amount of commerce that moves along I-10 in Arizona, the expansion project the State has advanced has enormous national significance for our supply chains and for trucking in particular.

Can you speak to the impacts that congestion has on supply chains and the importance of investment in projects like the I-10 expansion?

Mr. SPEAR. I can. Thank you.

And I am well aware of that stretch. I have driven it. My wife just drove it last weekend. And it is a problem. It is one of the choke holds in the country that needs to be addressed.

And it is not just safety, albeit that is the top priority. It is fuel burn. Fuel burn creates emissions when we are sitting in congestion, as I have talked about earlier. This is a key point the IJJA can alleviate.

And we come out every year with the top 100 bottlenecks. Your State has one, as you just stated. And they are not difficult to track. We do this with DOT initiatives. We have GPS that tracks them. We can see the speeds. It is a heat map, shows every red spot around the country where we have congestion.

If you are looking for the top 100 priorities to go after, alleviating the supply chain contraction, creating better safety, better environmental controls, go after the top 100 bottlenecks.

It is an easy list. It just so happens it comes out next week, so, stay tuned. We do this every year. We will be shipping it up to all of you. You can see if your districts or States are among them.

There shouldn't really be any surprises in there, and that should be the roadmap for DOT and States to target. It will have such great gains for the economy, lowering inflation by getting goods to where they need to be faster. We are all going to be paying less as a result.

So, I could not agree more that that is a good way to prioritize.

Mr. STANTON. That's right. It is also an important equity project because much of that land where the expansion would be is on the Tribal community of the Gila River Indian Community as well.

Thank you for that answer.

I yield back.

Mr. CRAWFORD. Thank you.

Mr. Owens, you are recognized.

Mr. OWENS. Thank you so much.

I want to also add my thanks to the witnesses here. What a remarkable insight and education we are getting here.

I am excited about being part of this committee or this team and adding some of the innovation and collaboration and the entrepreneurial spirit that Utah has to this conversation.

A couple comments and then a question that I want to follow up with that Mr. Mast asked you, Mr. Spear.

Well before coming to this industry, I had a passion to end and deal with sex trafficking of women and children. It is a passion. It is a big mission for a lot of us in Utah.

And I will say this. Well before hearing it today, being in front of you guys, I have heard about how the stakeholders all are thankful for the trucking industry for the awareness that has come about throughout the years.

Many people won't talk about it. They don't see it. But the industry saw it. And I have had an opportunity to meet a victim that was rescued through this process. So, I want to thank you guys for being aware and working on that.

The other thing is, I was in the software industry for 30 years, and I was also an independent contractor on the side. Why? Because it was not my goal to have another employer. I wanted to have my own business to one day be free of someone else having on their own whim drive my career.

The greatest sector in our country is the middle class, and it is powered by business owners. So, let's never forget that. And any time we take this option away from business owners we are going to hurt our culture, our future, and the idea to dream past somebody else's whims. So, I just wanted to make that point.

Mr. Mast was asking you about the workforce supply chain. And obviously we are talking about 18 to 21. Is there anything else that Congress can do or not do? As we understand, we have to mitigate the fact that we are graying out in all these industries, some kind of way we have to bring these young people in, knowing there is income to be made, and they can pursue their dream at a much lower cost getting into the process.

Is there anything else we can start looking at—and I want to start off with you, Mr. Spear—that can help us to either get out of the way or to allow this process to move and get the supply chain moving a little bit faster with the workforce?

Mr. SPEAR. I think it starts with training. Greg and I are actually friends. We have some differences obviously, but I don't think you will ever hear either one of us talk or devalue training, the importance of it, especially with entering talent.

Whether it be 18 to 20 or anyone coming into our industry, we want to make certain first and foremost that they can safely and responsibly do their job. We want them to get home to their families at night safely. That is something we should all want.

So, training is absolutely paramount and ensuring that they have the right standards in place across the board. Entry-level driver training comes to mind. This is a rulemaking that we do support.

I think exemptions for certain folks to not comply with that, based on what segments of our industry they are in, create inconsistencies in that. I think we all need training. I go through it myself at work. We are aware of a lot of things in our work environment that are reoccurring every year and we remind ourselves of that.

So, I can't emphasize that enough, the importance of it. Developing a good workforce to replace those that retire and exit is absolutely critical on training.

Mr. OWENS. Mr. Jefferies, would you like to add to that?

Mr. JEFFERIES. Absolutely.

The training piece is critical. We are immensely proud of our workforce who does a remarkable job moving America's freight day in and day out, doing it safely.

And these are strong, middle-class jobs. We have 12 unions on our properties. Average wages and benefits of \$160,000 with some of the best healthcare, some of the lowest employee cost shares of any industry out there. And that is something you can do on a GED. That doesn't happen a lot in this country anymore.

And so, Greg and I are aligned on those goals. We can debate about a lot of things, but I think that strong, well-compensated workforce is key.

Chris mentioned the drug testing issue earlier. That is something that affects our industry equally as much. We bring in classes of prospective recruits. We wash out upwards of half of them on day 2, once they realize there are drug testing requirements, Federal drug regulations. We have got to continue to work on that front.

And then really just at a broader level, it is all about a pro-innovation, regulatory modernization push, encouragement from this committee about really pushing technology, all in the advancement of safety and efficiency. It has got to be supported by data. If the data doesn't support it, it doesn't make sense.

But really a push that looks toward the future versus looking backwards. We still have regulations from the steam engine era on our regulatory books. So, there is a lot of opportunity for wins.

Mr. OWENS. Well, thank you. And again, I think we realized over COVID that this is truly the backbone of our country, moving product and building the business of the middle class. So, thank you so much for that, and I look forward to working with you for sure.

Mr. CRAWFORD. Thank you, sir.

Mr. Allred, you are recognized.

Mr. ALLRED. Well, thank you, Mr. Chairman.

And I want to thank our witnesses for their testimony. I think this is an important hearing. And I look forward to continuing our committee's focus on alleviating supply chain disruptions and making sure that consumers and businesses can get the goods that they need.

I am a cochair of the Supply Chain Caucus here in the House, and I am pleased at some of the progress that we have made. And I know that we have a lot more work to do.

Mr. Guenther, I want to begin with you, because obviously as a Texan, not from Houston, but from Dallas, the story of the Port of Houston is informative, because in your testimony, as Mr. Nehls mentioned, you noted that the Houston Ship Channel has been underfunded by 50 to 60 percent, resulting in draft restrictions throughout the channel.

And when we talk about important investments, like we are making in the IIJA, this is why we want to make these investments, so that we don't then, when a crisis comes along, have to come in here and ask you, why is the Houston Port Channel not operating to max efficiency?

What does a draft restriction mean for you, just for my constituents back home, what does that mean for them?

Mr. GUENTHER. It is pretty simple. We have a 45-foot operating draft and we have a 45-foot channel that goes through a bay that naturally wants to be 7 or 8 feet. It is continuing to silt in. So, if it silts in without regular funding and gets to 43, 42 feet or whatever, it restricts the amount of cargo that the ship can carry, costing more money.

Mr. ALLRED. So, you have ships sitting out in deeper water oftentimes, right? And you will have to have—

Mr. GUENTHER [interrupting]. They actually don't load because they know how deep the channel is before they leave their origin.

Mr. ALLRED [interrupting]. Well, because they know they can't—

Mr. GUENTHER [continuing]. So, that limits what they can put on from the beginning.

Mr. ALLRED. And so, it has a cost to our overall economy. Obviously, as the biggest regional port, it has huge costs to our region. That is why these investments are so important.

That is why I find it a little bit frustrating when people will say they didn't support the IJA. This is historic investment. It might not be everything that you wanted. It is not everything that I wanted. But for the first time in decades, we finally said we are going to make a serious investment in American infrastructure, and we are going to try and address some of these issues.

As you know, I have supported full Federal funding for the Houston Ship Channel, and I want to make sure we do that.

And I know that there are ripple effects from your port that we feel all the way in Dallas. You mentioned the need for investments to plan for future demand to ensure incoming cargo has a place to go instead of sitting at the port. I know many of the cargo distribution centers are in my district in Dallas.

And so, I am wondering how ports can work with other sectors of the supply chain to manage demand and move cargo more efficiently.

Mr. GUENTHER. Well, thank you for that question. And we know Dallas is a big hub for distribution centers, and a lot of that cargo comes through the port.

An example of what we have looked at is things that maybe we wish we would have had during the supply chain, like either nearby inland depots or further away to be able to move freight through, to move ships faster, and we didn't have that capability.

We applied for a Mega grant, too, because we thought that that kind of met the needs of what was necessary for the supply chain to remain fluid in the future. We weren't selected for this grant cycle, but we certainly have a plan of fine-tuning that or whatever.

But those types of investments, I keep talking about the water-side, but also it is very important on the landside, the opportunities to perhaps move freight more efficiently, nights, weekends, and utilization of off-hours and during those times. And that infrastructure investment is very important in making that happen. So, thank you for your interest in that.

Mr. ALLRED. Well, thank you. I appreciate it.

Mr. Regan, as we talk about workforce issues, I am a former union member myself in the NFL Players Association. To me, we make jobs more attractive until you get young people to go into

them. So, it is a career that they can make a good wage in, they can be treated right, and they can retire with dignity.

What do you see in the implementation of the IIJA that we need to be doing better by our union workforce?

Mr. REGAN. Yes. Thank you for that. And I couldn't agree more. I think if you look at one of best ways to have job retention in any industry is have a union, because we are there fighting for you, someone has got your back.

And for us, you look at the way we are investing, and we are lucky enough in transportation to have one of the highest union densities of any sector in this country. And that is, in my view, why transportation has been for so long an oasis of middle-class jobs, an area where too often we have seen wage suppression in this country.

Transportation has high union density, and because of that we have a lot of people who are able to deliver for their families and have good wages and benefits.

Mr. ALLRED. Well, thank you, Mr. Chairman. I know I went over. I yield back.

Mr. CRAWFORD. Thank you, sir.

Mr. YAKYM, you are recognized.

Mr. YAKYM. Thank you, Mr. Chairman.

It is clear that reckless spending from the last 2 years has stoked runaway inflation. From the food on the table to the table itself, to the trucks and trains transporting the food and tables, Americans were hit hard in the last 2 years with inflation.

I am looking forward to working with my colleagues to get inflation under control and put our fiscal house in order.

By definition, inflation causes your dollar to go less far than it once did. I had one of my constituents in my office talking about a massive infrastructure project within my district that because of inflation is now going to cost a projected \$10 million more, and it is an important infrastructure project that we need.

Mr. Spear, can you talk about how inflation has impacted your industry, whether it is CapEx, delays, foregone projects, labor rates, and how those increased costs have impacted our supply chain?

Mr. SPEAR. Certainly. I think that inflation, as we look at the impact it has had on fuel pricing, it is our second biggest cost burn right under what we pay our employees. And when you are seeing it more than double, even triple in certain parts of the country, that is a major headwind in terms of operations and our ability to get goods to where they need to be with a shortage that we are experiencing in driver force.

The cost of fuel is really impactful. So, we have seen that spike considerably, and diesel is still rising, riding higher than petrol.

So, it is a major concern. A lot of those costs we try to pass on. If you are in contract fleets, you can do some of that. For a good number of companies and owner-operators, that is not the case. So, it is even more impactful on them.

So, we would love to see the fuel prices get back to where they were pre-COVID.

Mr. YAKYM. Thank you.

Mr. Jefferies, same question.

Mr. JEFFERIES. Yes. It has an impact across the board. So, whether it is the cost of goods of doing business, that increases the cost of goods sold, or the cost of services you are providing, which at the end of the day makes its way to the consumer, which reduces buying power, which has an overarching economic impact.

I would pair—we have talked a lot about permitting, permitting reform, delays, and getting projects to work. That is only exacerbated by inflation.

You get delayed by 1, 2 years, my colleague mentioned this earlier, and you are in a high-inflation environment, well, that jacks up the price of the overarching project dramatically. So, the funds, the CapEx funds you had put aside for that project, may not cover that, and maybe you are not doing that project anymore.

So, it is not just that things cost more. It is impacting investment. It is impacting project delivery, project development as well.

Mr. YAKYM. And, Mr. Jefferies, you mentioned earlier that the amount of dollars that the railroad industry is putting into CapEx for rail improvements around the country, can you tell us—and maybe you have data on this, maybe you don't—but what is the scope of projects that have gone up in price? And in totality, how many projects have you not done because of inflation?

Mr. JEFFERIES. So, I don't know if I can put a number on there.

I will say this. There is a vast number of projects that we do every year regardless of the cost because they have to be done to maintain a safe railroad; a well-maintained railroad is a safe railroad.

So, when it comes to that maintenance, that keeping the existing infrastructure where it needs to be, that is happening one way or another because it has to be done.

But where I think you see the hits are on potential capacity expansions, et cetera, that a railroad of any size is going to take another look at. If suddenly it is 10, 15, 20 percent more to do that, maybe you are not doing that in that year.

But, admittedly, I can't point to—those are individual business decisions that railroads are going to make on their own.

Mr. YAKYM. And so, you are still making those investments. And it is probably fair to say that the increased cost is being passed on to the consumer. Is that a fair assessment?

Mr. JEFFERIES. Well, it is certainly having an impact, I will say that, at the end of the day.

Mr. YAKYM. Thank you.

And, Mr. Firth, same question.

Mr. FIRTH. I would say that for us, after we get a project, it could be a couple years long, could be 6 months or whatever, it is the supplies. It is the wood that we have to buy that spikes up and down, for instance, to form the bridge decks, form the piers, form the columns, hammer heads, et cetera. It is those incidentals that we have no control over or we can't lock in pricing ahead of time.

So, I would say that would be the biggest hit that we take usually, and we can't pass that along to owners ahead of time, because we don't know—we can't buy it right then and there, if we can even get it, and everything.

Mr. YAKYM. Thank you.

Mr. Chairman, I yield back.

Mr. CRAWFORD. Thank you, sir.

Mr. Auchincloss, you are recognized.

Mr. AUCHINCLOSS. Thank you, Chairman.

Last Congress, we were able to pass historic legislation to meet our ambitious climate goals. But until clean energy projects are up and running, these investments will not realize their full potential.

Massachusetts is working on this implementation at every level. Our new Governor, Maura Healey, made tackling climate change a central part of her work as attorney general and is now working with offshore wind developers to ensure the Commonwealth is able to reach its 2030 emissions target.

A failure to make this transition has implications beyond climate change. It also threatens jobs guaranteed by the first project labor agreement for an industrial-scale offshore wind project in the United States.

In my district, Bristol Community College's National Offshore Wind Institute offers basic and advanced safety and technical training programs to prepare workers for jobs in construction, deployment, operations, and maintenance of offshore wind farms.

Unfortunately, inflation and supply chain issues have threatened to derail the Bay State's goals and delay our transition to a green energy economy.

Mr. Firth, in that vein, my first question is for you.

You noted in your testimony the difficulty the construction industry is facing in purchasing materials like steel. It creates a significant risk to businesses.

How can Congress create additional market certainty for these manufacturers? And for multiyear contracts, what steps should contractors be taking to incorporate market rates' uncertainty in the future?

Mr. FIRTH. It is a great question.

When we get at bid time our estimators are pulling their hairs out because, let's say, at 9 o'clock you have got to turn in the bid. And when I say a bid, it is low-bid pricing. We might be getting quotes at 8:55, and we are sitting there trying to figure out, OK, how low are they, are they cheap, are they more expensive?

And also, then they say, by the way, you need to let us know by the end of the day whether or not you can lock in our price. We might not even know if we got the job because maybe the job is over budget from the owner's perspective. They have an engineer's estimate and everything.

So, if all of a sudden for us we are taking huge risks on, OK, well, maybe we were low bidder, but we were over the engineer's estimate, will it be awarded? And then, by the way, we have got to lock into a price to where we might not even know if we get the project or not.

So, something along those lines to where I think some of the owners are starting to look at separate contracts ahead of time that they know as they talk to industry about what can we do to help. Maybe it is procuring those permanent materials, such as steel girders for bridges or whatnot.

So, I think more of that and getting more industry feedback would be helpful.

Mr. AUCHINCLOSS. Thank you.

Mr. Spear, I have a separate question for you. But first I do need to respond to your points in your testimony about the Federal Highway Administration's 2021 memo, I think it was, that you referred to.

Just to be clear, first of all, over the last three decades, Congress has made highway program funding more and more flexible. And that is partly in response to the fact that the public is deeply concerned about deferred maintenance and repairs. They expect us to be a good steward of their tax dollars. And States are still free to make their own investment choices.

But being a good steward of those dollars would suggest that we should fix the 4-million-mile road system that we have already built first.

And I would also take some issue with your point that highway widening is going to be the answer to congestion. I think we have seen that widening roads induces demand. We need to manage more intelligently the roadways that we have, whether it is HOV lanes, whether it is congestion pricing.

We have got to think beyond simply the physical infrastructure and instead the pricing mechanics that we use and the management mechanics that we use.

My question for you, though, is about the reauthorization of the NTSB. And one issue I want to explore is truck safety data ownership. Cars and commercial trucks continue to become more advanced, and as a result they will produce more data that we can utilize to make our roads safer if drivers and mechanics and regulators and insurance companies can access it.

Do commercial trucking companies have access to and sole authority over their truck data to your knowledge?

Mr. SPEAR. They do. Telematics is our property.

Mr. AUCHINCLOSS. And what are your thoughts on the increasing push by OEMs to own that data or to lay claim to it in some manner?

Mr. SPEAR. I think it is probably better answered by the OEMs. But it belongs to them. They produce the product. They sell the product. They maintain the product to sell it off to somebody else to service it, have access to it, including the Government.

That is a big debate. And we are not the only ones facing that question that you pose. The autos are too.

So, telematics is a very sticky issue and it has been litigated heavily in States, also legislated in States. So, it is an issue that we are not foreign to.

Mr. AUCHINCLOSS. I look forward to working with you on it.

Mr. SPEAR. Absolutely.

Mr. AUCHINCLOSS. I yield back, Chairman.

Mr. CRAWFORD. Thank you.

Mr. LaMalfa, you are recognized.

Mr. LAMALFA. Thank you, Mr. Chairman.

My apologies to the rest of the committee and others for dueling committees going on. So, if anything I ask is redundant, please forgive me on that today.

Let me jump right into an interesting piece on a California driver, truckdriver, a woman, who had really sought and kind of met her dream. Let me just read a little excerpt of what she had com-

mented on, a news piece, just a couple days ago. Jumping in here. Her name is Dee Sova.

“I often reflect on where my dream started and what could have been. As a Black woman, I had built a successful business and created a profitable path in an industry that had once belonged almost exclusively to men. Then the California legislature stepped in and took that all away from me. They forced me to say goodbye to the place I once called home for decades.

“I’m blessed to have successfully moved to a more business-friendly State”—Missouri, it turns out—“but not everyone has the resources to do so. Since AB5”—which has been talked about a lot—“has gone into effect, thousands of more independent truckers in California have been thrust into legal limbo. Lawmakers have given other industries a carveout from AB5, but they continue to deny truckdrivers that same opportunity.”

You can ask Dee Sova, who gave up, filled her truck, and left California for greener pastures in Missouri.

So, the bill, AB5, was pitched as a bill to protect workers from having their benefits cut and being forced instead—they allege they were being forced to be independent contractors. The super majority in Sacramento created exemptions for their favorite industries, not truckers.

So, what we know is that the vast majority of trucking companies are small and they are mom and pop, but all are welcome. But it sets a terrible precedent that a State is being allowed to interfere with the trucking employment requirements, which indeed have ramifications in the whole country and across many industries.

So, one of the feelings of being a trucker is to be able to have freedom and flexibility for contracted employment. Now every driver will have to charge more, things will become even more expensive. Every piece of cargo, every box of cereal on the shelf, et cetera, will have to cost more, and further delay an already bogged down supply chain.

So, Mr. Chairman, I would like to enter this article into the record, if I may.

Mr. CRAWFORD. Without objection. So ordered.

[The information follows:]

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**Opinion, “I’m a successful female minority truck driver. California’s AB5 forced me to leave the state I love,” by Dee Sova, Fox News, January 30, 2023, Submitted for the Record by Hon. Doug LaMalfa**

I’M A SUCCESSFUL FEMALE MINORITY TRUCK DRIVER. CALIFORNIA’S AB5 FORCED ME  
TO LEAVE THE STATE I LOVE

*I was living my version of the American Dream, but California lawmakers had a very different plan for me*

by Dee Sova

Fox News, January 30, 2023, 2 a.m. EST

<https://www.foxnews.com/opinion/female-minority-truck-driver-california-ab5-forced-me-leave-state>

To most people, owning your own business is a way to become successful. For me, it was a mission—a lifeline to a brighter future for myself and my daughters.

That journey began in California more than three decades ago, when I dropped my nursing studies to get a commercial driver’s license. As a woman, the thought

of working in a male-dominated field was intimidating at first. But those initial fears soon gave way to the rewarding opportunities that a career in trucking offers.

The change was unexpected. As a single parent raising four daughters, I needed both flexibility and the opportunity to provide for them. Which is why, in 2015, I partnered with Prime Inc. to become an independent contractor.



Independent contractor Dee Sovo moved her trucking business to Missouri after California passed its AB5 law. (American Trucking Associations)

Being an independent truck driver empowered me to run my truck as my own small business. I loved traveling on the job, the freedom to be my own boss, and the option to take my children with me on long hauls when I could.

Making good money while seeing the country, I built a wonderful life back in California—a place I was proud to call home. I was living my version of the American Dream. But lawmakers in Sacramento soon had a very different plan for me.

When the state legislature began debating Assembly Bill 5—a law effectively banning independent contractors in trucking—my dream was put in jeopardy. AB5 would have demoted me from small business owner to company employee—affecting my hours, benefits, flexibility and overall ability to earn on my own terms. It would effectively kill the dream I worked so hard to build over so many years.

So, for the second time in my professional life, I knew it was time to change gears. I packed up and left California. I could not afford to lose my business and the livelihood it provided my family. In 2020, I moved to Springfield, Missouri, where I continued as an independent contractor with Prime Inc.

I often reflect on where my dream started and what could have been. As a Black woman, I built a successful business and created a profitable path in an industry that had once belonged almost exclusively to men. Then the California legislature stepped in and took that all away from me. They forced me to say goodbye to the place I once called home for decades.

I'm blessed to have successfully moved to a more business-friendly state, but not everyone has the resources to do so. Since AB5 has gone into effect, thousands of more independent truckers in California have been thrust into legal limbo. Lawmakers have given other industries a carveout from AB5, but they continue to deny truck drivers that same opportunity.

Over my 31 years in trucking, I've driven more than 2.1 million accident-free miles, delivering the goods that Americans depend on every day. I'm proud to serve as an industry ambassador, working in my free time mentoring women truck drivers and supporting this vibrant, growing community.

Those like us who choose to own our business should be supported as we pursue our dreams. It's unfortunate California lawmakers see fit to tell us we only belong as company employees. Despite those obstacles, I can still take to the road and pursue my dreams elsewhere.

*Dee Sovo is an owner operator truck driver for Prime Inc. in Springfield, Missouri.*

Mr. LAMALFA. Thank you, sir.  
Let me ask Mr. Spear from ATA this.

Now, I probably won't have to really ask it, but have you seen motor carriers leaving the State of California? We kind of know the answer to that question. Are more planning to do so?

Mr. SPEAR. Yes, I do.

Mr. LAMALFA. What kind of numbers, I guess, are we losing? I think I saw where 70,000 as of January 1 would be completely ineligible, if I am thinking correctly.

Mr. SPEAR. It is a significant number. And Ms. Sova's story is one of many. And I know her well. I am very, very, very proud to have her as an ATA America's Road Team captain. She is an outstanding driver. And when she speaks, I think people do listen.

It is what I said earlier. I think we need to talk more to the independent contractors. Did somebody force you to do this, some heavy-handed employer push you into this category so they didn't have to pay you as much or give you benefits? You will find that the answer you get is just the opposite of what you think.

Listen to what she has to say. She chose this for a reason. She wants to grow her own business. She wants to employ other drivers. Most of our big members started with one truck as ICs.

It has been around for 90 years. I am not saying any category is perfect. It is not. Let's don't make this into a national crisis. This is a sound, contributing workforce to the trucking industry, and it is under assault in California. So, yes, we are a bit bullish about that.

And by the way, a lot of employers have to have contractual provisions in their IC contracts that adhere to health, safety, environment, and taxation standards. That is part of the deal. And when they don't, there are consequences for that.

Mr. LAMALFA. Yes. Yes. There are consequences.

Is ATA, other members, other contractors, receiving some type of guidance that is helpful from either the State or the Federal Government on how to deal with these regulations? Is it clear how they should be complying or is it murky?

Mr. SPEAR. Get a lawyer.

Mr. LAMALFA. Get a lawyer. Great. I would just like to be a trucker, out on the open road and haul things, and unload, and get in my sleeper when I need to. Getting a lawyer isn't really part of that.

Mr. SPEAR. Nope. It is not a good answer. I apologize. It is the truth.

Mr. LAMALFA. No. You gave a real answer.

Let me jump over to Mr. Guenther from Port of Houston here. I could go into it bigger. But some of our supply chain issues seem to be subsiding somewhat. I don't think they are over by any means.

What should we be doing for our ports and import-export system to improve on efficiency? And I come from the ag sector, who we have just been brutalized in California getting the ag products back on the boats.

Mr. CRAWFORD. Quick answer, Mr. Guenther.

Mr. LAMALFA. Thank you, sir. Thank you, Mr. Chairman.

Mr. GUENTHER. Yes. Thank you. Great question.

Yes, it is tapering off in the U.S. I can speak for Houston. We are still at a pretty high level, but regardless.

To your point, a lot of import cargo dwelling on the terminals impacted the export cargo on the terminals. I think a short answer that we have talked about is the ability to have more visibility and information about the cargo coming and going and also having more access to infrastructure, whether it is inland depots, moving cargo off the terminal, or storing more excessively.

Mr. LAMALFA. Thank you, Mr. Chairman.

Everybody buy more walnuts. That will help a lot. Thank you.

Mr. CRAWFORD. Just to remind Members that we are up against a floor vote schedule. So, move as expeditiously as we can.

Ms. Hoyle, you are recognized.

Ms. HOYLE OF OREGON. Thank you. And I want to thank all the witnesses for coming here to testify.

The weakness in our supply chain became very clear at the west coast ports during the recent crisis, and one vital way to minimize future supply chain backups in our ports is to expand capacity.

The workers at the Ports of Seattle and Long Beach move almost 20 million TEUs per year. But as we have seen, the corporate focus of achieving low prices and profit by offshoring U.S. manufacturing jobs, combined with the longtime lack in Federal investment in our transportation infrastructure, has left the United States vulnerable. The pandemic created a perfect storm, resulting in critical shortages of necessary goods and a massive supply chain congestion on the west coast ports.

So, as we move to bring manufacturing back to the U.S., we are going to need to make sure our port infrastructure can keep up so U.S. firms can get their products to international markets.

We have an opportunity, and Mr. Firth knows all about it, in building a new deepwater container terminal port at the International Port of Coos Bay, which is in my district in southwest Oregon and is a public-private partnership with NorthPoint, a company based in the district of Chairman Graves.

Unfortunately, this project was recently denied a DOT Mega grant in the first round of grant funds, even though it is exactly the type of new investment that we need to address our supply chain issues and the inflation that is exacerbated by it. So, we will be applying in the next round, and I will work with anyone to help make that happen.

Before I ask questions of the panel, I want to provide more background about the project. It would create the only west coast ship-to-rail container port where maritime shipping crates can be loaded directly onto railcars and shipped directly to the rest of the country.

Bringing this kind of infrastructure online could increase west coast port capacity by up to 10 to 12 percent. No place along the west coast has that ability.

The port, which is the largest deepwater port between Puget Sound and San Francisco, has hundreds of acres of undeveloped industrial land and quick access to the open ocean.

And the west coast lacks any sort of resiliency. If we lose one port due to a man-made or natural disaster, that problem will be significantly worse.

Seventy percent of the containers that move through ports on the west coast of Canada are destined for the United States. Mean-

while, the Canadian Federal Government is investing in their ports. I can't understand why we would choose not to invest in our own ports and forfeit all that ship traffic and all the American jobs that go with it.

So, with that, first, Mr. Regan, and if there is time, Mr. Firth.

As Oregon's labor commissioner, I saw too often that people in the trades and transportation jobs were recruited by what we would call the FBI model of recruitment: father, brother, in-law. If your father, brother, or in-law were in the trades, then you get into the trades.

We worked very hard with business, with labor, to change how we did outreach and retention because diversity and recruitment means nothing if you can't create an environment for that diverse workforce to feel safe and supported to stay in those jobs. We addressed some of those issues earlier.

Mr. Regan, can you expand on how investing in the transportation workforce, workforce development, and recruitment to the many high-quality Registered Apprenticeship Programs that will arise through the record investment of the IJA can help address some of these supply chain problems?

Mr. REGAN. Yes. And thank you so much for that question.

The workforce is what is driving these supply chains. They are the backbone, they are the ones performing the work, whether they be the longshoremen in the ports, whether they be operating the trains, whether they be driving the trucks. They are the core of this.

And I think having more money available—and critically having money available for workforce training in the very beginning of these grant programs—means that we are going to be able to build the workforce of the future that can actually deliver as demand is going to continue to increase.

We are not going to see a decrease in cargo anytime soon. So, we want to be able to make sure that we have the workforce ready to meet those needs.

And we also have had an increased focus on diversifying the workforce in transportation, making sure that we recruit more women, more people of color, to make sure that we have a workforce that is representative of the country and that opportunities are available for everyone in this country to have a good-paying, middle-class job.

Ms. HOYLE OF OREGON. Thank you.

Very briefly.

Mr. FIRTH. I think that if we could increase the money into the career and technical education programs, I think that would be fabulous. I personally think that we try to tell younger kids that you have to go to college. You can really make a great career in any of our trades. It is just great.

Ms. HOYLE OF OREGON. Thank you.

Mr. CRAWFORD. The gentlelady's time has expired.

Mr. D'Esposito, you are recognized.

Mr. D'ESPOSITO. Well, thank you.

And to the panel, thank you for your time today.

As a native Long Islander, I firsthand know the value the supply chain industry brings to our economy. My district heavily relies on

the trucking for freight needs in its vicinity to both JFK Airport and the ports in New Jersey.

Companies like Canaan Xpress from Valley Stream and K-1 Logistics, whose owners live in Long Beach and East Rockaway, have suffered economic burdens as a result of the freight container backlog and strained resources.

From prolonged stalling at port to congestion, incurring additional fees, and at times not able to receive their cargo, Long Island truckers, our small businesses and consumers, are having to foot the ramifications of supply chain inadequacies.

Mr. Spear, as our local ports and truckers work overtime to meet the market's demands, do you feel that the current administration has made it a priority to implement ocean shipping reforms that ensure supply chain efficiency?

Mr. SPEAR. I have seen good dialogue led by the White House National Economic Council on supply chain, particularly ports. I think passage by this body of the Ocean Shipping Reform Act is a significant step forward. I think there needs to be some continued discussions with this administration about what more we can do to ensure that our supply chain is streamlined and resilient to these pressures.

I think box rules—we are currently litigating chassis choice, availability of chassis. We are being told by ocean shippers that these are the chassis you have to use. That creates a backlog. It creates contractions within our ability to move those boxes faster. We need chassis choice. And that is something, whether this body chooses to legislate, we are litigating, as I said. But it is a racket. It is just pure and simple. It is more of the same.

And I think looking for ways that we can get more efficiencies within the port, within drayage, to ensure that we can stack higher, move off site, push to rail, push to chassis faster, these are all things that are going to make improvements going forward, but we need to continue the dialogue.

Mr. D'ESPOSITO. Thank you.

And, again, I have two manufacturers on Long Island that closed in the last 6 months citing the inability to keep up with their inflated supply chain costs.

Do you believe that the current administration's lack of prioritization for shipping reform and cutting through the redtape is preventing small businesses like these on Long Island and in Nassau County from operating and thus forcing some to close?

Mr. SPEAR. I think a lot of communities around the country are entirely dependent on trucks. It was just cited. I mentioned earlier first mile on, last mile off. You are going to have to involve a truck and a driver to get it where it needs to be.

So, small businesses generally serve those communities. They are there at night when they go home to their families. So, making certain that they remain capable in delivering those goods is instrumental. It is not just large cities. It is the communities around the country that deserve attention to that.

So, yes, we are very mindful of it. It is something that we are going to continue to represent at the table when we are talking about these efficiencies. It is not lost on us.

Mr. D'ESPOSITO. Thank you.

Thank you all for your time.

Chairman, I yield back.

Mr. CRAWFORD. Thank you, sir.

I now recognize Mrs. Foushee for 5 minutes.

Mrs. FOUSHEE. Thank you, Mr. Chairman.

And thank all of you for being here today.

My district in North Carolina is home to world-class research universities and community colleges, vibrant small businesses, community-oriented nonprofits, and Research Triangle Park, a premier global innovation center and the Nation's largest research park.

My district also is one of the fastest growing areas in the entire country, and we are, of course, feeling the effects of growing pains. We are struggling to keep up with the demands that come with the rapid growth of an area, and this is, unfortunately, reflected in our transportation infrastructure.

I know how critical it is for our communities to have robust and resilient infrastructure and accessible and reliable transportation systems. I look forward to tackling some of these problems and issues as a member of this committee.

As we work to improve and modernize our transportation systems, we must also talk about the implementation of clean transportation and how this affects our current workforce.

So, my first question today is for Mr. Jefferies.

Mr. Jefferies, one of the benefits—well, you have indicated that one of the benefits of a functioning freight rail network is the ability of the freight railroads to move a ton of freight nearly 500 miles on just 1 gallon of fuel. And I understand that some of the Class I railroads are exploring battery-electric locomotives to further reduce their emissions.

So, if you could please tell me how railroads are preparing their workers to ensure that their skills grow with these changes.

Mr. JEFFERIES. Well, that is a great question and a broad question, because the challenge of further reducing emissions is an immense one.

But to your point, as we stand here today, freight rail is the most environmentally friendly way of moving goods across land. But we have got a lot more work to do.

We are investing in battery electric. We are investing in hydrogen. We are investing in additional biofuels. And all of the Class I's have signed up and agreed to science-based targets initiatives when it comes to targeted emissions reductions in the next 10 years, in line with the Paris treaty.

And that is going to take an all-hands-on-deck approach, an all-options approach. So, that is investment in our yards, that is investment to reduce emissions with our propulsion, anti-idling, reducing friction between wheel and track.

And that is why we are exploring every opportunity. That is why we have test locomotives, test battery-electric locomotives out in revenue service. That is why we are deploying battery switcher locomotives in yards. It is all about reducing that top-line emissions level. And, quite frankly, our customers expect that from us.

We can become a tool to help them reduce their overarching tooth-to-tail emissions because they are focused on their supply

chain. So, the better value proposition we have on that front, the more attractive we are to a customer.

And I will just add, in your area of North Carolina, one, we have a wholly owned subsidiary IT company located in Cary, I know nearby, not directly right there. But there is also an immense amount of rail investment going on in North Carolina, both on the passenger front and the freight front.

Mrs. FOUSHEE. Thank you for that.

Mr. Regan, how can we ensure that we are still prioritizing workers as we incorporate these new technologies into transportation like zero-emission technology?

Mr. REGAN. Thank you.

I think that is a really important question in all areas of technology as we start to see it be deployed in transportation.

We view, in the labor community, we are not opposed to technology. We embrace it. We have generations of embracing technological change throughout transportation.

What we ask for, though, is that we want to make sure that as we are advancing our technological capabilities, we are also advancing our workforce, making sure that there are training opportunities so that the existing workforce has the ability to advance their careers as the technology changes.

Likewise, we want to make sure that any introduction of new technology is done so in a way that improves safety across the board. It should never be used as an opportunity simply to remove a worker. It should be done in concert with the experts who are doing the jobs so that they can actually enhance safety and combine that with the human expertise that has been doing it for a very long time.

Mrs. FOUSHEE. Thank you.

Mr. Chairman, I yield back.

Mr. CRAWFORD. Thank you.

Mr. Johnson, you are recognized.

Mr. JOHNSON OF SOUTH DAKOTA. Thank you, Mr. Chairman.

And, obviously, I am pleased that the committee is making the supply chain such a high priority this year. I think it builds on the success that Mr. Garamendi, my friend from California, and I had last year with the Ocean Shipping Reform Act. It is already having an impact on helping to heal some of the supply chain issues.

But obviously nobody is alleging the supply chain is as healthy as we want it to be yet. That is why I am working with Mr. Costa on the SHIP IT Act, which attempts to address a number of different issues or deficiencies within the trucking arena.

And without objection, Mr. Chairman, I would ask for statements in support for the SHIP IT Act to be entered into the record from the Consumer Brands Association and from the Shippers Coalition.

Mr. CRAWFORD. Without objection, so ordered.

[The information follows:]



**Letter of January 31, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Thomas Madrecki, Vice President, Supply Chain, Consumer Brands Association, Submitted for the Record by Hon. Dusty Johnson**

JANUARY 31, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Transportation and Infrastructure Committee, U.S. House of Representatives, 2167*  
*Rayburn House Office Building, Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*Transportation and Infrastructure Committee, U.S. House of Representatives, 2163*  
*Rayburn House Office Building, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

Thank you for convening today's hearing on supply chain and transportation challenges, recognizing the considerable impact of recent supply chain problems on manufacturers, shippers, and consumers across America.

But recognizing past impacts is, of course, not enough. Pandemic disruption, port congestion and an averted freight rail strike may no longer be front page news, but supply chain concerns seem likely to persist through 2023 and beyond, absent proactive action and policy intervention to strengthen competitiveness and resilience. Long lead times for manufacturing components, soaring production costs, out-of-stock products and inflation are leading indicators that we can and should be doing more to protect American consumers, including through efforts to improve supply chain fluidity.

Acting now to improve supply chain fluidity can help reduce the chances of high-profile problems later on and provide economic and quality of life benefits today.

Supply chains are the backbone of economic growth, national security and consumers' quality of life. But even before the COVID-19 pandemic, America's food, beverage, household and personal care manufacturers expressed growing concern over the state of U.S. supply chains.

And the Members of the Consumer Brands Association have direct knowledge. Our membership includes many Fortune 500 companies and other important companies well known to the public. Collectively the annual gross revenue is in the hundreds of billions of dollars as part of the work product of millions of employees and contractors. We have to make and move and receive the products. We are taking an increasingly intense interest in improving transportation, logistics and supply chain performance. We work with carriers but they need our products to carry and we increasingly have our own views on how to improve movement of the products that make up the economy.

In recent years we have seen cracks in the system—issues as far-ranging as the truck driver shortage, truck parking, freight capacity, rail performance, maritime shipping challenges, port congestion, inadequate data sharing and the untapped opportunity of emerging technologies—imperil business operations, slow manufacturing lines, foster inefficiencies and add to consumer costs.

These challenges and others like them offer a roadmap for steps the Congress may take to strengthen supply chains. For all of the talk about supply chains and the importance of them, there remain many avenues for members of Congress to enhance resiliency through strategic policymaking.

One of the most encouraging signs of potential progress on supply chain issues is the introduction of legislation like the SHIP IT Act, offered by Reps. Dusty Johnson (R-SD) and Jim Costa (D-CA). The SHIP IT Act serves as a template for proactive, practical legislation addressing specific supply chain challenges, like the lack of truck parking on highways across America, much-needed incentives for truck driver recruitment and training, and the assurance of regulatory flexibility during emergencies to ensure safety and business continuity. The SHIP IT Act, and any complementary proposals developed this year by Committee members, offer opportunities to enhance efficiency, safety, sustainability and performance—all to the benefit of U.S. manufacturers, consumers and transportation providers.

From agriculture, to manufacturing, to the technology start-ups of tomorrow, all American industries and consumers rely on the strength of our national supply chain. It is imperative that we strengthen, protect and modernize this delivery system, which can be harmed not just by geopolitical events like the pandemic and war in Ukraine, but also by failure to invest in and improve how freight flows across America now, to reduce the chances of the problems we have seen arising again.

Government policy should help—not hinder—private sector efforts to deliver for consumers, working in parallel to ensure the availability, affordability, and accessibility of everyday essential products.

Thank you for your interest in strengthening American supply chains, and for convening today's hearing. This is a first step that must be followed by common sense actions to improve policies and approaches so that we can all deliver for America for decades to come.

Sincerely,

THOMAS MADRECKI,  
*Vice President, Supply Chain, Consumer Brands Association.*

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**Statement of the Shippers Coalition, Submitted for the Record by  
Hon. Dusty Johnson**

While many of us have known this for a while, the last couple of years brought to the forefront of everyday American's mind how fragile our supply chain is. Backups at the ports, a truck driver shortage, several potential railroad strikes, and others events have proven that steps need to be taken to strengthen our supply chain to mitigate any future disruptions. A strong supply chain ensures that shippers are able to get critical goods and products to consumers in a timely and cost-efficient manner.

The trucking industry has experienced a significant driver shortage, which is only expected to worsen. In order to solve this problem, the industry will need to recruit nearly one million new drivers in the next decade to replace the retiring workforce. It is critical to recruit new drivers to the industry, but it can't end there. Changes must be made to retain drivers by improving their quality of life while on the job. This can be done by implementing the following: allowing drivers under 21 to cross state lines, offering incentives for veteran, women, and minority drivers, providing tax incentives to current and newly eligible truck drivers, reducing barriers for entry to truck driving school, improving safety by increasing the availability of truck parking, and streamlining the CDL process.

The Shippers Coalition implores Congress to work in a bipartisan fashion to ensure that it is easier to recruit and retain qualified drivers. The industry needs to alleviate the nationwide truck driver shortage, ensure a high quality of life for drivers while on the job, and take pressure off the system.

One way to address supply chain issues is to advance the Safer Highways and Increased Performance for Interstate Trucking Act (SHIP IT Act), introduced by Congressman Dusty Johnson (R-SD) and Congressman Jim Costa (D-CA). This bill provides common-sense solutions by taking a holistic view of pressure points in the supply chain by increasing shipping capacity, lessening burdens on current and future truck drivers, providing incentives to recruit and retain drivers, and allowing additional flexibilities during times of emergency. These solutions will help ensure consumers have access to critical goods and bring much-needed reform to a system that has been long neglected. Commendably, this legislation would take action immediately, working towards solutions to positively help the economy and safety, and prevent high-profile supply chain concerns, rather than waiting to act until another supply chain crisis. The Shippers Coalition supports this bill and encourages the committee to move this forward.

In our global economy, efficient ocean transportation is essential to a well-functioning supply chain. We are confident that the Ocean Shipping Reform Act will help ease or prevent shipping backlogs and help prevent future spikes in international ocean shipping costs like we have seen in the past. Importantly, the bill provides the Federal Maritime Commission (FMC) with new tools to help level the playing field for American exporters and limit anticompetitive behavior. While the passage of this bill was monumental, it was only the first step in alleviating the issues seen at ports across the United States. The Shippers Coalition is closely following the implementation of these provisions to ensure the voice of the shipper is heard. These provisions are critical essential in lowering shipping costs and strengthening all aspects of the supply chain.

*The Shippers Coalition* is the leading safety voice in building a more modern, safe, and environmentally friendly trucking system. The Coalition is a joint effort of more than 80 of the nation's most prominent manufacturers, agribusinesses, and trade associations, including Anheuser-Busch, PepsiCo, Coca-Cola, the American Chemistry Council, the Consumer Brands Association, Niagara Bottling, Tyson Foods, Procter & Gamble, and the National Cattlemen's Beef Association, among others. The Shippers Coalition seeks to improve supply chains and freight transportation, all while

advancing safety and reducing emissions, vehicle miles traveled, fuel consumption, and congestion. The Coalition is sharing the story of shippers across the country and proposing solutions that increase fluidity in the supply chain.

Mr. JOHNSON OF SOUTH DAKOTA. Very good. Thank you.

Mr. Spear, I was grateful to see in your testimony and hear in your testimony a reference to the Ocean Shipping Reform Act, holding that up as a success of the last Congress.

I think today, gentlemen, you have got a sense of the hunger and the appetite that this committee has to continue to build on those successes.

So, the question to you, Mr. Spear, what top three pressing issues or ideas do we need to pursue in this committee to continue to build on OSRA's success?

Mr. SPEAR. I think transparency is really good, the accurate invoices, resolving disputes. These are all good things that will come from this law that we strongly supported. So, well done.

I think looking ahead, as I just spoke earlier about the box rules, We are litigating chassis choice, and being able to pick, we talk about choice a lot, but being able to pick which chassis you can use.

These are ocean shippers that are applying a lot of leverage on us, acting like cartels; this is exactly what OSRA was meant to defuse.

So, going forward, I think ensuring that we have choice. We can move those boxes much faster. This is something we are litigating.

But that is an area certainly to provide oversight at a minimum, because it really is a racket.

We are looking also at instances where ports, particularly in California, are electrifying much more rapidly than other parts of the country. And I just have to say that about 60 percent of those that are operating in drayage are less than 20 trucks.

So, the affordability of that equipment in that amount of time, assuming it is available, assuming it can be charged—that is a good environment certainly to incubate this sort of thing—but the ratio, the cost ratio between an electric truck and a diesel power truck is like 5 to 1. They are not going to be able to afford this.

So, that is literally nearly 30 percent of the boxes being moved. If those less than 20 go, you are going to have a real issue on your hands.

So, I think we need to look, again, about the timelines. Let's incubate alternative energy into the workplace, but let's do it in a responsible way that doesn't put people out of business, doesn't cause more bottlenecks within the supply chain.

Mr. JOHNSON OF SOUTH DAKOTA. And certainly the conversations continue, and Mr. Garamendi and I are working on an OSRA 2.0 to try to address some of the outstanding issues.

Mr. Guenther, for you, I want to pick your brain a little bit about LOGINK. You probably know more about it than I do, but I believe this is a Chinese-developed logistics software system, a platform that they are attempting to foist upon ports and other stakeholders.

Now, they are giving it away free. It collects a tremendous amount of data, which can then be centralized inside China to provide, no doubt, competitive advantage.

I have grave concerns about the LOGINK system. I wonder whether or not it should be used by anybody in America. Are my concerns misplaced?

Mr. GUENTHER. Well, if you could—I am not aware of that. What was the name of that?

Mr. JOHNSON OF SOUTH DAKOTA. LOGINK. So, it is capital L-O-G-I-N-K.

Mr. GUENTHER. OK.

Mr. JOHNSON OF SOUTH DAKOTA. And it is a data management logistical tracking software that tells about what cargo is there, where it is headed, where it is coming from, just a tremendous amount of information.

Mr. GUENTHER. I am not aware of that software, but obviously it is a concern, cybersecurity. The fluidity and efficiency of container terminals in the U.S. rely on robust and very smart operating systems. So, we have to make sure that those are protected from a cybersecurity standpoint or whatever.

So, I am not aware of that, unfortunately. However, we do know that we continue to—most of the equipment—a lot of the equipment that we do use at our ports, ship-to-shore cranes and those type things, are made in the Republic of China.

So, we are aware of any system, no matter where it is from, to make sure that it is not infiltrated and data breached or whatever, because we all know that we are attacked each and every day at every port in the Nation. So, we have got to make sure that we are diligent and vigilant about that.

Mr. CRAWFORD. The gentleman's time has expired.

Mr. JOHNSON OF SOUTH DAKOTA. Thank you, Mr. Chairman. My has time expired.

Mr. CRAWFORD. Yes, sir. Thank you.

Mr. Westerman, you are recognized.

Mr. WESTERMAN. Thank you, Chairman.

And thank you to the witnesses for being here today. We have a lot going on in other committees, so, I missed a lot of your testimony. But I do appreciate you coming here and visiting with the committee.

I have got some grave concerns about our Federal permitting process. I remember in the last Congress we had the largest infrastructure bill in the history of the world that never even came through this committee. But we did do some—we worked on some other bills that, unfortunately, never got any kind of traction in the last Congress.

And I remember talking with my Democratic colleagues about they are focusing on the wrong issues. They are trying to put a lot of money out there, but they are not going to be able to do their projects any more than anybody else will be able to do them because of permitting issues.

And if we take a quick look at DOT's Federal Environmental Review and Authorization Inventory, that identifies the most commonly used redtape laws and regulations, it outlines a massive list of 64 separate permits and reviews, and that is just the list of the most common hurdles.

With the constant need to improve our infrastructure—and we will just go down the table there—can you speak to me about what

issues you and your colleagues are facing that are delaying your ability to improve that infrastructure, and what are the most egregious permitting roadblocks?

Mr. Spear, we will start with you.

Mr. SPEAR. Thank you, Congressman.

I think we work very closely with our State associations, with State DOTs, to really identify the projects that need to be shovel ready, and really moving them forward through the environmental impact process to ensure that they are teed up and have access to the funding, shared funding, that could hopefully come through the IIJA. And we focus on the top projects. We would deem those as being the ones that have the most congestion in the country.

There are a number of ways that you can deal with congestion. But we need to prioritize. Those should be projects that we are looking at well ahead. Because we report on them every year. We know what they are. So, it shouldn't come as any shock that these things get through the process much quicker, get more attention, and speed up that permit process that these projects are underway and done.

Mr. JEFFERIES. Yes. I think we see it across the board, whether it is investing in new yards, yard expansion, whether it is adding second lines of rail, whether it is bridge replacement.

And there are commonsense solutions. We saw some progress over the past few years with One Federal Decision, but that is limited to certain agencies.

Really, it is just all about predictability in the process. Put some timelines on it, identify what the criteria are that are going to be evaluated, and take this just open-ended guessing game out of it, and folks can work around it.

Predictability and certainty are all the community wants so it can make its investments and decisions with some level of confidence of when they are going to be able to put dollars to work.

Mr. WESTERMAN. As an engineer who did a lot of projects before I came to Congress, I can certainly agree about predictability and removing uncertainty. Engineers like those sorts of things, for good reason.

Mr. Firth?

Mr. FIRTH. Yes. Thank you for the question.

Going back, I think it is having that flexibility and expediency in the review process. Not all contractors look at a job at the same line of construction, you might say. We all have different means and methods on how we attack something.

And so, when you are kind of pigeonholed into a permit, and sometimes the owners need to, I think, engage industry a little bit more on how to get something permitted, having that communication open, so then that way the projects can get through the first time and not hit a hurdle or a roadblock later down the road.

Mr. GUENTHER. And just to add to that, the permitting process is certainly—it was asked earlier about any delays. And on the waterside, talk about the opportunities, some of the issues that the Corps has and the time it takes to review and approve just a standard project.

We just need to make sure that there is not a lack of funding for regulatory staff and making sure that there are no delays going

through the environmental process, and maybe look at some type of time limits that we need to have on these so we can have some certainty for the projects.

I know I hear from our dredging industry that it is dependent upon these and there is a finite amount of dredges. There needs to be some consistency and reliability as well.

Mr. WESTERMAN. Mr. Regan, I apologize. I am out of time.

I ask to submit this letter from the National Mining Association.

Mr. CRAWFORD. Without objection, so ordered.

[The information follows:]

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**Statement of the National Mining Association, Submitted for the Record by  
Hon. Bruce Westerman**

The National Mining Association (NMA) appreciates the opportunity to provide input to the Committee on Transportation and Infrastructure regarding the state of transportation supply chains and infrastructure, specifically regarding rail transportation. The NMA's members conduct mining operations throughout the United States and rely on Class I rail carriers to transport mined products, including coal.

The NMA is the voice of the American mining industry in Washington, D.C. Membership includes more than 275 corporations involved in all aspects of mining including mineral and coal producers, mineral processors, equipment manufacturers, state mining associations, bulk transporters, engineering firms, consultants, financial institutions and other companies that supply goods and services to the mining industry.

BACKGROUND

Coal is a reliable and abundant energy resource—making up nearly 90 percent of U.S. fossil energy reserves on a Btu basis. The demand for coal, especially coal exports, is on the rise. Russia's invasion of Ukraine has severely shaken global coal markets and triggered a spike in U.S. thermal coal exports to help alleviate Europe's tight energy supply and low natural gas reserves. The U.S. Energy Information Administration (EIA) predicts U.S. exports to increase up to 92.6 million short tons in 2024.<sup>1</sup>

Roads, railways, appliances, buildings, stadiums, bridges, airports and other structures are all supported by steel—a material dependent on metallurgical coal. Seventy percent of the world's steel requires coal for its production. The U.S. is one of the largest metallurgical coal exporters in the world and demand is expected to increase 20 percent by 2030 to keep up with the pace of aging infrastructure.

American coal producers are almost entirely reliant on U.S. railroads to get products to market. For example, coal produced in the Powder River Basin can be transported over 1,000 miles, and as far away as Georgia, Oregon and Texas. These operations run 24 hours a day, 7 days a week and 365 days a year to meet the needs of consumers. According to the EIA, trains transport nearly 70 percent of coal deliveries in the United States for at least part of the way from mines to consumers.<sup>2</sup> Additionally, coal accounts for more rail tonnage for railroads than any other commodity.

IMPACTS TO COAL SHIPPERS AND ENERGY UTILITIES FROM RAIL TRANSPORTATION  
SUPPLY CHAIN AND RELIABILITY ISSUES

Mining companies continue to encounter difficulties getting coal to the consumer. While mines are producing, the same cannot be said for rail, and our members desperately need relief.

Currently, there is very little recourse for poor rail service, and in some cases, shippers are sometimes held captive with no viable alternative shipping methods due to what is effectively a monopoly over rail transport in some regions of the U.S. Several reliability issues with the rail transportation sector were raised in an over-

<sup>1</sup>Energy Information Administration, Short-Term Energy Outlook, Jan. 10, 2023; <https://www.eia.gov/outlooks/steo/report/coal.php>

<sup>2</sup>U.S. Energy Information Administration, Mining and Transportation of Coal, accessed Jan. 2023; <https://www.eia.gov/energyexplained/coal/mining-and-transportation.php>

sight letter to the Surface Transportation Board (STB). U.S. Senators Kevin Cramer (R–N.D.) and Tammy Baldwin (D–Wis.) led a group of 19 bipartisan colleagues in a letter urging the STB to ensure reliable, consistent rail service for American industries and shippers.<sup>3</sup> Several commodity specific issues were highlighted, including several specific to mining and energy utilities:

*Energy producers have needed to curtail production due to consistently delayed arrival of railcars, citing delays of roughly two weeks.*

For example, Wyoming experienced an increase in coal production in 2022, but due to a lack of rail service to deliver coal to power utilities, coal producers were unable to produce an estimated 50 million additional tons of coal. This loss of production could have brought an estimated \$100 million in additional revenue to the state in the form of severance taxes.<sup>4</sup>

*Energy producers and manufacturers are facing lack of service.*

In 2022, the Navajo Transitional Energy Company (NTEC) saw train performance at its Montana Spring Creek Mine fall well short of required and historic levels. The rail carrier claimed that the lack of service was part of the widely reported service challenges all Class I rail carriers were experiencing. Despite these broader challenges, rail carrier service in the adjacent areas improved over prior years. Simultaneously, the rail carrier significantly reduced the percentage of trains available to NTEC and significantly increased the percentage of train service to NTEC's competitors on this route. These supply challenges and reliability issues caused NTEC to lose over \$150 million in revenue and incur \$15 million in demurrage penalties for 2022.<sup>5</sup>

*Missing switching of railcars and reduced service days can force manufacturers to use additional railcars to maintain the same level of business, leading to increased cost for the shipper and further strain on the rail network overall.*<sup>6</sup>

With coal consumption rebounding, energy utilities have increased drawdowns of their coal stockpiles. In 2021, coal inventories hit their lowest levels since the 1970s. Because of these historically low inventories, some railroads like Union Pacific anticipate continued demand for coal shipped by rail in 2023.<sup>7</sup> The EIA finds that the cost of rail transport as a share of the total delivered cost of coal to electric utilities has increased from 36.6 percent in 2009 to 48.4 percent in 2020.<sup>8</sup> During the same period, coal transport costs as a percentage of total delivered cost by both truck and barge have remained relatively stable.

Feedback from NMA members further illustrates the above findings included in the bipartisan congressional letter.

#### CONCLUSION

Following an April 2022 STB hearing on “Urgent Issues in Freight Rail Service,” the STB ordered certain Class I railroads to submit service recovery plans and provide additional data to support improvement. The NMA appreciates this initial step in holding Class I carriers accountable. However, rail service has not consistently improved, as evidenced by the STB's own data provided by the railroads, and NMA members' candid feedback on service issues. It is critical for Congress and the STB to hold Class I railroads accountable and to provide relief.

<sup>3</sup>Senator Kevin Cramer, Letter Presses Surface Transportation Board on Rail Disruptions, May 24, 2022; <https://www.cramer.senate.gov/news/press-releases/sens-cramer-baldwin-colleagues-press-surface-transportation-board-on-rail-disruptions-urge-reliable-service-for-american-industries-shippers>

<sup>4</sup>Cowboy State Daily, Lack Of Trains Cost Wyoming \$100 Million In Coal Revenue In 2022, Jan. 22, 2023; <https://cowboystatedaily.com/2023/01/22/rail-service-cost-wyoming-100-million-in-coal-revenue-in-2022/>

<sup>5</sup>NTEC, Navajo Transitional Energy Company Files Lawsuit Against BNSF For Breach Of Contract, Dec. 20, 2022; <https://navajotransitionalenergy.com/navajo-transitional-energy-company-files-lawsuit-against-bnsf-for-breach-of-contract/>

<sup>6</sup>Senator Kevin Cramer, Letter Presses Surface Transportation Board on Rail Disruptions, May 24, 2022; <https://www.cramer.senate.gov/news/press-releases/sens-cramer-baldwin-colleagues-press-surface-transportation-board-on-rail-disruptions-urge-reliable-service-for-american-industries-shippers>

<sup>7</sup>Argus Coal Daily, Issue 23–15, P. 2, Jan. 24, 2023;

<sup>8</sup>U.S. Energy Information Administration, Coal Transportation Rates to the Electric Power Sector; [https://www.eia.gov/coal/transportationrates/pdf/Table%201\\_Real.pdf](https://www.eia.gov/coal/transportationrates/pdf/Table%201_Real.pdf)

The NMA urges Congress to use its authority to take additional action to confront these ongoing service problems that cripple the U.S. supply chains. We must be able to move responsibly sourced domestic coal to the utilities that power communities and heat and cool our homes. We must be able to transport metallurgical coal to the industries that repair roads, bridges and buildings to keep our infrastructure safe. We need to move coal, and that starts with efficient rail.

The NMA appreciates the committee's attention to this subject and we look forward to engaging and supporting the committee in its effort to address these long-standing issues.

Mr. CRAWFORD. The gentleman's time has expired.

Mr. Kean, you are recognized.

Mr. KEAN OF NEW JERSEY. Thank you, Mr. Chairman.

First, I would like to thank the chairman for holding this important hearing today on the state of our Nation's transportation infrastructure and supply chain challenges.

I also want to thank all of our witnesses for being here today.

The Seventh Congressional District in New Jersey is home to some of the most significant transportation challenges and opportunities in the country. It actually stretches all the way across the State, from Kill Van Kull all the way to the Delaware River. We face congestion on our roadways and our highways, strained commuter rail and transit systems, and local roads and bridges that are in desperate need of repair.

My constituents, like others around the country, were impacted by the supply chain crises that every family in the country experienced. And so, each of the urban, suburban, and rural sections and infrastructures all need to be considered, and interoperability, as we are addressing our Nation's priority transportation goals so we can make sure we have both safety and economic competitiveness.

Mr. Jefferies, as you stated in your testimony—I am going to use this as a model for every one of the witnesses here today—you said that you know rail is a vital part in the New Jersey economy. And as you said in your written testimony, "The next great leap forward in safety directly relies on the ability of railroads to innovate and deploy new technology."

This is a question for every single one of the panelists. How can Congress support the railroads and the other individuals testifying here today to achieve their greatest potential in deploying technology that both improves safety and efficiency, as we started to hear today, but also is safe from a homeland security perspective so we know we have an entire grid that is safe?

Mr. JEFFERIES. Well, that is a great question and one we could talk a lot about on. I will just break it down into two factors.

One, effective oversight of the agencies responsible for regulating safety to ensure that their regulatory efforts are focused on objective, data-driven safety improvements.

Two, really on the legislative side, looking at ways to champion innovation, to expand the ability to use pilot programs, to expand the ability to use waivers to demonstrate new ways and explore new ways of doing things, to build that safety data set that can allow for an informed, educated debate about whether or not you should move forward with it.

This is not anti-worker. This is about creating a regulatory framework that keeps up with evolution of technology and innovation, and then adjusting worker roles and responsibilities to take

advantage of that, so that they are able to be most effective. And there is a training component to that as well.

Mr. KEAN OF NEW JERSEY. Anybody else on the panel have additional—from the port, for example, or Greg?

Mr. REGAN. Yes. Look, as I said earlier, I believe that technology is important. Technological advancements are important and they are something that we, as a labor movement, embrace.

Where I get really tired of it is when it is used purely as an excuse to lower head count, and we see that in industries across the board.

Our number one priority is to make sure that as we get new technology, it is done to enhance our ability to do our jobs, to make it safer, so that we know that it is another tool that can be at the disposal of the people who are experts in these fields and are able to do the job to the best of their ability.

So, we are all about trying to figure out a way to incorporate this and deploy it into the industries where our workers are. But we want to make sure it is done in a responsible way, and too often it is viewed as an excuse to get rid of another worker.

Mr. KEAN OF NEW JERSEY. Thank you.

Mr. GUENTHER. I can just add, not about the railroads, but certainly—

Mr. KEAN OF NEW JERSEY [interrupting]. Well, I was using it as a basis for every single one of the issue areas you are here to speak about.

Mr. GUENTHER. Yes. So, similarly, technology is very important. We wouldn't be able to do the things that we do and be as efficient as we are as a port and terminal operators without the technologies that we have.

But again, I agree, they have to be a tool for the worker. We have been successful on that in creating better processes. But at the same time, it creates jobs. The more containers that you can handle through a terminal, for instance, the more longshoremen that are going to be employed.

So, technology is a good thing, and we need to embrace it and use it correctly.

Mr. KEAN OF NEW JERSEY. It needs to work with a partnership with the individual as well.

Thank you, Mr. Chairman. I yield back the remainder of my time.

Mr. CRAWFORD. I thank the gentleman.

Mr. Van Orden, you are recognized.

Just a reminder, we are up against a floor vote. So, Members are reminded to keep your comments brief and tight, please. Thank you.

Mr. VAN ORDEN. Mr. Chairman, thank you very much.

Witnesses, I appreciate you coming here today.

I represent Wisconsin's Third Congressional District. It is comprised of 19 whole and partial counties, approximately 13,000 square miles. We have locks and dams running from Pierce County, which is almost directly across from Minneapolis-St. Paul, down to the Iowa-Illinois border, across from Dubuque. That is lock 3 to lock 11.

We also are an agrarian district, and we understand that it doesn't matter how much grain you are able to produce in a field if it can't get to a processing facility and then get to a market. It might as well rot there.

So, the trucking industry is incredibly important to my district. So, thank you very much. I have got long-haul, over-the-road truckers in my family. And so, I appreciate the work you have done.

Being the most junior member of this committee, all of the questions I was going to ask you have been asked. So, you're out.

So, Mr. Jefferies, I want to thank you very much. We have the BNSF Railway that runs nearly the entire length of my district from north to south. And so, it is incredibly important to our economy also. Again, all of my questions have been asked, so, you are out of luck.

However, Mr. Firth—hey, listen, we can spend all this monopoly money that this administration has been throwing at infrastructure, but if we don't have somebody to actually complete the work, it is not going to happen. And I am not a fan of the Federal Government imposing restrictions and regulations on States. However, I would like to ask you this question.

In the State of Wisconsin, they have established some artificial limits on the amount of apprentices that a single master, a tradesman, can have. So, for instance, a single plumber, master plumber, can only have two apprentices that can work underneath him simultaneously.

So, in your professional opinion, if we were to standardize the ability for our masters to have more apprentices underneath him, what type of effect would that have on your workforce?

Mr. FIRTH. Well, I can't speak—I am not a plumber. I don't have any experience in that. I usually sub that out.

Mr. VAN ORDEN. I understand.

Mr. FIRTH. But as far as workforce goes, though, I don't think it would be a bad thing. It is going to probably cost more, it is going to have to be accumulated into the bids that we would turn in or whatnot, if you add more people. I think there are other avenues for training that we could have through apprenticeship programs. I think the trades right now do a pretty good job of having those ratios or whatever. I am an open shop contractor, so, I can't really speak for how the unions work. But, I think it would probably cost more.

Mr. VAN ORDEN. OK.

Mr. Guenther, if you could briefly—and maybe we should take this later because I am limited on time. Can you speak about the effects of the lack of maintenance on our locks and dams and the potentiality for the effect on commerce?

Mr. GUENTHER. I am sorry. The lack of?

Mr. VAN ORDEN. The maintenance on our locks and dams.

Mr. GUENTHER. Well, similarly, I think it is a big issue, similarly to what we have been talking about today, the O&M funding. Locks on the inland waterways are very important. I know that we handle—we are the largest ship channel in the country, but we know there are 200,000 barge movements in and around our facility. So, making sure that we are maintaining all waterways, not

only deepwater, but shallow water. Barge canals are extremely important and should be included in the funding process.

Mr. VAN ORDEN. Very well. Thank you very much.

And, Mr. Regan, reading your written testimony, I can only assume that you are not related to Ronald Reagan. Is that correct?

Mr. REGAN. No. He fired the air traffic controllers. I am lucky enough to represent them.

Mr. VAN ORDEN. That is correct.

Hey, so, listen, man, I got to tell you something. I did read your testimony, and I am going to strongly encourage you to do something: Change your tone.

So, I am a retired senior enlisted Navy Seal who dropped out of high school and got a GED. I have been supporting myself financially since I was 16 years old. So, I consider myself a tradesman. And we have to work together collectively. But the tone of your written testimony is not conducive to that.

So, I will reach across the aisle to my colleagues. I am more than happy to work with union labor, absolutely. But we have to start addressing each other in a more respectful manner, and I would just encourage you to do that. And I am more than happy work with you.

With that, I yield back.

Mr. CRAWFORD. Thank you to the gentleman.

Mr. Ezell, you are recognized.

Mr. EZELL. Thank you, Mr. Chairman.

In accordance with the committee rules, I ask for unanimous consent to submit a statement from the National Association of Waterfront Employers for the record.

Mr. CRAWFORD. Without objection, so ordered.

[The information follows:]

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**Statement of Robert W. Murray, President, National Association of Waterfront Employers, Submitted for the Record by Hon. Mike Ezell**

Chairman Graves, Ranking Member Larsen, and the Members of the Transportation and Infrastructure Committee, the National Association of Waterfront Employers (“NAWE”) appreciates the opportunity to submit its views on the current state of U.S. transportation infrastructure and present and future challenges throughout the international supply chain. As the voice for U.S. marine terminal operators (“MTOs”) in Washington, DC, NAWE witnessed first-hand the resiliency of America’s transportation stakeholders and their labor partners in overcoming the unprecedented supply challenges of the last three years. Moreover, NAWE is acutely aware of the need for further infrastructure investment by private MTOs—with support from the Federal government—to meet the challenges of the future.

**CURRENT STATE OF SUPPLY CHAIN CHALLENGE AT MARINE TERMINALS**

As the Members of this Committee know, unprecedented consumer demand for durable goods started in April 2020, created congestion throughout the entire international supply chain, leading to space shortages at domestic warehouses, marine terminals, and rail yards. These congestion issues were further exacerbated by critical shortages in transportation personnel and equipment, including motor carrier drivers, chassis, and containers. As the critical hub in U.S. international trade, marine ports were often the focus, both publicly and politically, of these supply chain congestion challenges. Indeed, photos of fully-laden vessels anchored outside of U.S. ports became the symbol of supply chain congestion.

However, as they have always done, U.S. MTOs and longshoremen responded with unwavering resiliency. When other industries were shutting down in the face of the pandemic, U.S. MTOs remained open, without disruption, to ensure that con-

sumer goods would be delivered in a timely manner. When demand for the use of marine terminals exceeded capacity, our industry worked with Congress and the Administration to find new ways to meet those challenges, including operating marine terminals 24 hours a day, seven days week, despite such operations creating financial challenges for MTOs.

Two critical “tools” assisted MTOs in meeting these challenges and ensuring that operations returned to their current steady state. The first was the imposition of terminal demurrage, which created an appropriate incentive for shippers to remove containers from marine terminals in a timely manner. The second was the ability to rely upon MTO agreements filed with the Federal Maritime Commission (“FMC” or the “Commission”) which, under the protection of antitrust immunity, allowed MTOs to coordinate efficiently and effectively to promote cargo fluidity.

#### *Terminal Demurrage*

In its simplest terms, terminal demurrage is a storage fee that is charged when a shipper improperly seeks to use a marine terminal as a warehouse. A critical element to ensuring a steady flow of cargo throughout the supply is the timely removal of containers from marine terminals by shippers. Marine terminals operate in a finite, zero-sum environment. Each container that is sitting at a marine terminal is taking up space that a container on the next incoming vessel cannot occupy. Unfortunately, throughout the recent supply chain congestion challenges, MTOs repeatedly witnessed shippers improperly treating marine terminals as long-term storage facilities, particularly when shippers’ inland warehouses ran out of capacity. Accordingly, terminal demurrage served, and continues to serve, as an invaluable incentive to ensure that shippers removed their containers swiftly to allow space from the next round of import—and export—containers. In addition, terminal demurrage ensures that MTOs are appropriately compensated for their overhead costs associated with storing containers at the costly, waterfront property that marine terminals occupy.

In midst these supply chain congestion challenges, Congress passed the Ocean Shipping Reform Act of 2022, Pub. L. No. 117–146 (“OSRA 2022”). NAWE is extremely grateful that Congress ultimately recognized the importance of terminal demurrage in ensuring the fluid transfer of cargo through U.S. ports by removing MTOs from the substantive demurrage billing requirements of OSRA 2022. Such action was a further recognition of Congress that MTOs lack any contractual privity with shippers and therefore:

1. MTOs have no control over the “free time” (i.e., “rent free” storage time at the marine terminal) agreed to between the ocean carrier and the shipper; and
2. MTOs have no information as to why the shipper is delayed in removing their container from the marine terminal.

The FMC is currently engaged in a rulemaking process to implement OSRA 2022’s detention and demurrage billing requirements, having published its Notice of Proposed Rulemaking (“NPRM”) on October 14, 2022. Unfortunately, the FMC’s NPRM ignored the clear Congressional intent and has proposed to include MTOs in OSRA 2022’s demurrage billing requirements, which would potentially impede the flow of cargo and places untenable burdens on MTOs that lack means to obtain the information required by OSRA 2022. NAWE looks forward to the Commission correcting this error in its final rule. In the interim, NAWE wishes to thank Congress for its support regarding the importance of terminal demurrage in ensuring the flow cargo and asks this Committee to allow the rulemaking process to be completed, consistent with the Congressional intention underlying OSRA 2022.

#### *MTO Agreements*

In addition to terminal demurrage, MTOs were able to overcome recent supply chain challenges by coordinating efforts under agreements filed with the FMC, which are granted antitrust immunity by the Shipping Act. MTOs generally operate on leased property within a larger public port complex. Accordingly, some level of cooperation between competing MTOs is necessary when operating on common port property. Congress recognized this unique operational environment, and the corresponding need for cooperation between MTO competitors, by granting agreements filed with the FMC antitrust immunity (generally after a statutorily mandated 45-day waiting period). NAWE’s members are extremely grateful for this authority, because it allowed MTOs to coordinate responses to supply congestion, including extending gate hours to 24 hours a day, seven days week. Accordingly, MTOs have used their antitrust immunity to support the flow of cargo, often at a financial loss and to the benefit of shipper interests, rather than to seek self-enrichment.

Under the FMC’s current Shipping Act authority, if the Commission believes that a filed MTO agreement, by a reduction in competition, would produce an unreason-

able reduction in transportation service or an unreasonable increase in transportation cost, it can go to district court to seek injunctive relief. The FMC has *never* exercised this authority with regard to a filed MTO agreement because, quite simply, MTO agreements do not reduce competition, they increase port efficiency. Accordingly, NAWA urges Congress to maintain the current Shipping Act antitrust immunity and enforcement regime with regard to filed MTO agreements, which are invaluable for meeting present and future supply chain challenges.

#### MARINE TERMINAL INFRASTRUCTURE NEEDS

NAWE's members face additional challenges when preparing to meet supply chain challenges in the future. Foremost of these challenges is the requirement to meet decarbonization goals under the Inflation Reduction Act's Clean Ports program. Key to achieving these goals is the purchase of zero- or near-zero emissions port equipment to replace existing cargo handling equipment. Support from this Committee for funding opportunities, including through the Port Infrastructure Development Program, will be crucial to support these costly next-generation equipment upgrades. For example, a single diesel tractor used at a marine terminal can cost around \$150,000, while an electric tractor and its charging infrastructure could cost close to \$600,000. Moreover, the utility infrastructure at ports will need to be adapted to allow MTOs to charge their cargo handling equipment and draw more electricity from the grid. Accordingly, additional support from this Committee will be necessary to allow ports to rapidly develop and restructure their infrastructure master plan and implement capital improvements.

In addition to the overwhelming costs, there are significant challenges in sourcing American-made zero- or near-zero emissions port equipment. Domestic manufacturers are currently partnering with battery suppliers to build specialized electric port equipment, however, there are still a number of types of cargo handling equipment that are not available in the United States. Accordingly, NAWA encourages this Committee to adopt a measure of flexibility to allow the use of Federal funding to purchase *domestically unavailable* equipment.

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NAWE appreciates this Committee's leadership in addressing the supply chain and infrastructure challenges that U.S. marine terminal operators face currently and in the future. We are also thankful that the Committee has invited Roger Guenther, Executive Director of the Port Houston, to testify at this hearing. Mr. Guenther is a tremendous leader in the marine terminal industry and is an invaluable resource for this Committee to better understand the challenges and opportunities inherent in the operation of U.S. ports.

We look forward to continuing to work with this Committee to further develop a resilient and competitive U.S. supply chain.

Mr. EZELL. I will try to talk fast.

Thank you, Mr. Chairman.

I am grateful to have the chance to discuss the many social and economic benefits provided by a well-maintained transportation system. People want to feel comfortable that they can travel safely through our local communities and industries and need to know that their goods are delivered efficiently and safely at a reasonable cost.

Mr. Spear, I am going to start with you.

It is clear from today's discussion there is a need to improve the Nation's physical infrastructure to keep pace with our global competitors and address inflation.

In your testimony, Mr. Spear, you mentioned how Federal policies affect a State's ability to begin critical infrastructure improvements.

Mr. Spear, how does biased, left-leaning administrative guidance cause uncertainty for the projects in our States back home?

Mr. SPEAR. I think I would dial back to the Federal Highway Administration memo that we have been referencing throughout this

hearing. If everything is going so swimmingly well with handing States the moneys they need to do these projects that they deem priority, then why have the memo?

Mr. EZELL. Exactly.

Mr. SPEAR. Why have it? You are just breeding confusion, including in my industry, but certainly in States like yours. So, get rid of the memo. Stop playing games. I know why it is there. The environmental lobby doesn't want any more cars and trucks on the roads. That is why. So, it is to appease them.

This is a lot of money. It is a law handed to them to administer. There is plenty there to go around even with inflation. This is a lot of money. And I think States need to be hand and glove working with the Federal Highway Administration to get these projects funded and underway.

So, that eliminates a lot of confusion, just get rid of the memo.

I think as far as emergency response—I understand you have a lot of wisdom in this department—making certain that the Secretary of Transportation and Governors like that in Mississippi have strong lines of authority and communication to ensure that we can respond to instances like hurricanes, but also things that aren't covered in emergency declarations, like the Colonial Pipeline, COVID-19.

These are things where we really need to break down barriers and work together. And I know you have a lot of experience in that, and I look forward to working with you on it.

Mr. EZELL. Thank you.

Mr. Guenther, now, the ports of the Mississippi gulf coast are unique in terms of types of services, but they are similarly dependent upon regular maintenance of their navigation channels and approaches.

In your testimony, you touched on this briefly, but can you talk more about the importance of channel deepening and widening projects and the maintenance dredging performed by the Army Corps of Engineers?

Also, what are some specific challenges you have faced with these projects, and how can Congress help?

Mr. GUENTHER. Thank you for the question. Certainly, Houston and the rest of the ports in the Mississippi gulf coast have similar issues with maintaining the dredging. I think there is a lot of certainly togetherness in that.

And as we move forward, we just need to make sure, like I had mentioned before, that we are getting O&M funding to do that, to keep them. All these channels, they are authorized to be at a certain depth and a certain width for a reason, to serve the economy of the United States of America, and we ought to spend the money to make sure that we keep those at their authorized depths so that we can have the efficient flow and competitive commerce in this country.

Mr. EZELL. Thank you.

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

Mr. CRAWFORD. Thank you.

The chair has been notified there will be a series of votes occurring on the House floor. The committee shall stand in recess subject to the call of the chair.

[Recess.]

Dr. VAN DREW [presiding]. The Committee on Transportation and Infrastructure will reconvene, and I recognize myself for 5 minutes.

Crazy day, isn't it?

My questions are going to be a little bit different, and I just wanted your thoughts in general. You are in different areas of industry and business and transportation. And I want to say from the get-go that I certainly am supportive of renewable energies and of a cleaner planet and trying to do everything that we could do.

I am also supportive of the idea that I want America always to be number one, and we should never be ashamed of it. We have to be the best.

And I have a little bit of concern because of that, and you deal with all this, that some of the requirements that do exist or may exist in the future are going to make it a little bit more difficult for you at times. It is going to be hard to do.

I was here earlier on in the day, some of the discussions of all the things that are required. So, making sure that everything is running the way that Government sees it isn't always necessarily best for business or the easiest for business.

So, when it comes to the supply chain, I believe that part of it exists, the problems that we have with it, to some degree exist because of some of the changes that we may be trying to make, quite frankly and candidly, a little bit too quickly. I believe that it can be good. We have more to learn.

So, with that, I would ask you, just each one of you, quickly to say what you think the greatest challenge is. And without getting nervous, I promise nobody will yell at you, if in some ways you are being pushed too hard, or we could just slow it down a little bit and make sure that we are competing.

Because, last thing I will leave with you, again, not necessarily in what you are all involved in, but in many forms of business, industry, energy particularly, we are putting all these requirements upon ourselves, for example, in energy, but we are not really the problem, whether people want to admit it or not. And India is not, China is not, Russia is not, and many other countries are not putting these requirements upon themselves.

So, it is sort of like saying, well, we are going to be perfect. It is going to cost us more. It is going to be harder. We are going to create issues. We are going to have to buy more stuff from other people because of all these requirements. That is not necessarily a good thing.

I just wanted some general thoughts on that. And I know everybody was touching on you about, well, what are you doing about this and how are you going to make sure everything is exactly perfect in the brave new world? I would like to see the other viewpoint.

So, Chris, I will start you, we'll just go right down the line.

Mr. SPEAR. Sure. Listen, as I said in my opening statement and hopefully conveyed throughout the hearing, let's just be realistic. That is all. Just put all the headwinds that we are going to face as a country to get to zero. It will come. It will happen eventually.

But this rush that we are seeing, this timeline, is simply unachievable. It is going to be embarrassing, because we are not going to hit it. We are not going to have the infrastructure in place. Let's just say we did, we are not going to have the power to put into it because we haven't invested and opened that up. And we are not going to have access to the minerals needed to create the batteries that go into these trucks.

I had an instance in Joliet, Illinois, a member built a 30-stall, not a big facility, but a 30-stall distribution center there. "Well, let's just electrify it." And they submitted the plans.

The city of Joliet shows up a few days later and says, "What are you building here?"

"What do you mean? It is a truck terminal."

They said, "You are asking for more power for this 30-stall facility than the entire city of Joliet."

That is the disconnect, and that is not solved overnight.

Dr. VAN DREW. Exactly.

Mr. SPEAR. So, let's be realistic about it. Let's put all the headwind on the table, and let's come up with a timeline that works. And we are all in on that. But that has to be transparent.

Mr. JEFFERIES. Yes. Government can obviously—policy can help drive the process forward, but the market has got to be able to react and innovate in order to meet those top-line goals.

And you can facilitate, you can support, you can take a carrot approach. But, to Chris' point, you have to look at things holistically, and just demanding one thing in one area here without considering the consequences or the inputs required from another part of the process, you just end up in a backwards situation where you are being jerked back and forth and trying to figure out just what the path forward is.

So, it just requires a holistic, clear-eyed approach.

Mr. FIRTH. Yes. For me, I think it is the administrative burdens that are going to be coming down the pipeline, I think, to comply with all these Federal requirements, as it gets more complicated.

We have 215 employees that we look after. We have an office full of maybe 15 people. And I kind of think if all of a sudden Buy America, do I have to hire somebody just to be an expert in Buy America, for instance?

And then I also kind of think about, OK, what about some of these smaller firms that don't have those resources, those capabilities to be an expert in Buy America?

So, somehow or another we have got to be a little simpler. And simple is better.

Dr. VAN DREW. I agree with you.

Mr. GUENTHER. Just a thought about the supply chain from a port perspective.

Supply chain disruption was really due to one thing, and that was just the historic demand on the system that wasn't able to absorb it. There hadn't been a single thing really that has fixed it so far, except for that the demand has gone down.

We have learned a lot. We need to continue to look at more cushion in the movement of freight, of goods, with lower emissions, that achieve the goals that we need to. And I would just cite, let's don't get overly aggressive with the rules that fix it going forward.

Dr. VAN DREW. Thank you.

Mr. REGAN. Well, I am used to getting yelled at.

Dr. VAN DREW. Time has expired, but go ahead, you finish up.

Mr. REGAN. I would just say we need to have the workforce in place to be able to meet the consumer demand that we are going to have, both from a passenger and freight perspective, and we also need to rebuild our manufacturing capacity so that we are not completely reliant on foreign countries for the critical materials that we need to rebuild in a greener and a better way.

Dr. VAN DREW. My time has expired. I appreciate you guys.

I am going to recognize now Mr. Williams, Representative Williams, for a statement.

Mr. WILLIAMS OF NEW YORK. Thank you, Mr. Chairman.

Thank you to the witnesses for being here. We certainly cover a broad swath of transportation here. So, thank you for your time.

I had the benefit of attending the Wharton School and studying operations under Patrick Harker and Professor Marshall Fisher, if you have ever come across either of them. So, I have a slight understanding of queueing theory and OR models and some of the things I think—the tools that you use.

But more importantly, I played the beer game. And before you or other of my colleagues here think it is that beer game, it is actually the supply chain beer game, which I think perhaps many of you have played or members of your team have. And the idea is that in any kind of supply chain across multiple distribution points, if you don't have visibility and transparency in data, that you make some very egregious decisions and assumptions about supply and demand and capacity and utilization and all those things.

And I notice in the petroleum industry they have the Energy Information Administration. A little bit different function. I know it is a commodity. It is much simpler. But the industry cooperates in ways that share data and visibility around supplies, storage, transport, all of these kinds of things that seem to make things move a little bit simpler.

And it is really an open-ended question. Are you aware of any industry or federally sponsored clearinghouses or brokerages of real-time or time-relevant data—whatever that is, if it is daily, or weekly, or hourly, whatever it is that is giving visibility of supply chain information—that makes your jobs easier, that makes you more efficient?

Is there a role to be played by the Federal Government to broker this kind of exchange of information that helps you do your job better? Is that something you have considered? Or is there something I should be aware of and I could look into?

Mr. JEFFERIES. I am happy to take the first crack at that. In the rail industry, actually, my organization is a primary clearinghouse for data along those lines. We have a wholly owned subsidiary called Railinc in Cary, North Carolina, that is kind of the IT backbone of information sharing and information transfer, because we are an interconnected network and exchange traffic, exchange business across lines so much that tracking that is critically important. Also, we are required to submit a vast amount of reporting data to our economic regulator, the Surface Transportation Board. And all of that data is generated in-house in my shop.

I will also say there is a pretty significant push, recognizing that the Amazonification of the world has occurred. And when I order a pizza, I want to know when the pepperoni is going on it before it goes in the oven. And so, there is a lot of work in telematics and real-time sensor tracking, et cetera, in the industry. There is a joint company that has been stood up with railroads—short lines, Class I's, carowners, car leasers—really working to make headway there. So, there are a lot of efforts afoot.

Mr. WILLIAMS OF NEW YORK. I understand that with rolling stock and maybe to manage capacity across a rail line, again, not my area of expertise, but what about, like, bill of lading? What about the actual flow of materials that allows companies to communicate better? And again, if you have played the beer game, you know what I am talking about, is that if you have better data transparency, it really makes a huge difference in how things flow. And again, if this doesn't exist, if it is something we should look at or that you think has obvious barriers like no one would do that, then let me know.

Mr. JEFFERIES. At the risk of dominating the conversation, that is an issue we ran into during some of the container supply chain challenges from port to truck or port to rail to inland yard and to final destination warehouses. A lot of times your contract is with the ocean carrier, and you don't know who the beneficial cargo owner is or what is in the box, and so, you are kind of playing a guessing game about where you are positioning your boxes in the yard, and just some simple knowledge transfer I know our folks have said would allow for an easier transition of product.

Mr. GUENTHER. Yes, I agree. There is information there. It has just become the sharing of that information, for competitive reasons or whatever it is, is that likely to occur? And it is not occurring today, but there is a lot of data out there, it is just not being exchanged.

Mr. WILLIAMS OF NEW YORK. Thank you. And maybe the Government could be a good-faith broker, in some way, of data. But thank you.

Dr. VAN DREW. Thank you. The gentleman's time has expired.

I now recognize Mr. Molinaro for 5 minutes.

Mr. MOLINARO. Thank you, Mr. Chairman. Thank all of you. I know it has been a long day.

I was here earlier during some of the conversation regarding the pandemic. I spent the last 12 years as a county executive in New York local government. I just want to acknowledge, first and foremost, that you and the folks you represent really during a time of great challenge rose to the occasion and, frankly, we ought not forget that. The challenge that we all faced and the determination in many ways, although I didn't agree with the language of the essential work, that the folks that you represent here really offered American people over those 2 years.

Having listened to a conversation about beer and pizza, I am suddenly very hungry. But that said, I want to return to my experience during those 12 years in local government.

And, Jeff, if I could, rural communities in particular are under-represented in inflation calculations. The miles they have to travel to move projects, the lack of workforce, the supply chain issues

really are exacerbated in rural communities. Can you talk for a moment, in particular, if you can localize it for me, meaning New York—and to the extent you can, I will accept it, to the extent you can't, I will accept it—but can you talk to the real life burden and the challenge we now have in more rural communities to move infrastructure project in particular?

Mr. FIRTH. Absolutely. I can't speak to New York. But, for instance, we have a project out at Yellowstone National Park where we are replacing a bridge. And you wouldn't really think about the logistics that need to go into getting materials in and out of the park, but also, too, from our workforce on if you are working 6 days a week, they have got to go to the store and get groceries, they have got to get laundry done, they have got to drive back and forth. These rural areas, it is very difficult sometimes to get the infrastructure in place to support call it the project that is actually happening.

So, I would say that it is not insurmountable, but you have just got to think kind of outside the box and be proactive.

Mr. MOLINARO. And that is why I took a little issue with a slide we saw earlier during the hearing. I would offer \$10 billion in 2022 doesn't go as far as \$8 billion did in 2021. And that has a lot to do with both inflation, the supply chain issues, and the challenges that we have in rural America to move projects.

I appreciated your reference in your testimony to Secretary Buttigieg's comment, no one understands a community's need better than those who live there. I wonder, Jeff, and maybe Chris, if you could, in the few moments I have left, my concern is that the infrastructure dollars flow to State governments and don't often make it to the ground. I know that I look very young, but I am old enough to remember the last infrastructure bill in 2008. And in the State of New York, very few dollars found their way to actual projects. Could you perhaps just reflect on that?

I am concerned in particular that State government, at least, again, localizing it in New York, consumes too much of those dollars and that we didn't build in enough of a drive to localize it. And I would say, I do not take a plea agreement on that Federal Highway Administration memo. I think it does send a message that there is a priority and it isn't necessarily what those in the local communities feel is necessary.

Mr. FIRTH. Yes, I think having the State governments have their own decisionmaking on what is best for what their communities are, right? They are living and breathing it. They understand what their needs are better than, I think, than, say, a one-size-fits-all policy coming from Washington. So, that is how I would answer that.

Mr. MOLINARO. And maybe to Chris, same question, but is there a concern that the States gobble up those dollars before they get to local communities, cities, counties, et cetera?

Mr. SPEAR. That has been the trend, but I think also we have lacked the kind of spending that you witness in the IIJA. You love it or hate it, that is a lot of money. That is a lot of money. Even with inflation, there is a lot of money going out the door. And that is why we have oversight, to make certain that it is being spent correctly.

I do think smaller communities that are generally 80 percent if not more dependent on trucks to deliver their daily goods do get generally less of a voice on such matters. But their infrastructure in most instances is a lot less expensive than, say, around very heavily urban populated areas.

So, I do think it is important for hearings like this, groups like ours, to make certain that they are not lost, that they are getting the dollars, because those roads still need to be maintained. We still need to make certain that we are delivering just in time. So, people want it faster today than they used to. COVID we saw us move more to, I want it in 2 days or less. That has shifted our entire industry radically to warehousing things regionally to get things to people's door, but it takes more drivers, it takes more equipment to do that. And we need infrastructure to get it on. So, a lot of that is in rural communities and they can't be lost.

Dr. VAN DREW. The gentleman's time has expired. Thank you.

And I now recognize Mr. James for 5 minutes of questions.

Mr. JAMES. Thank you, Mr. Chairman.

I also would like to take another moment to thank you and applaud you for your stamina, your patience in the work that you put in not just today, but each and every single day.

I ran a supply chain logistics company, automotive, in Detroit. I deal with trucking and rail each and every single day to satisfy our customers and to help grow our economy. I was asked recently by a reporter in reference to what you are hearing about the debt ceiling in this meeting that is going on with the President and the Speaker today. And they asked me specifically, well, what are you going to cut? And I responded, we are going to cut harmful regulations that make it more difficult to bring jobs back from Mexico and China. We are going to cut taxes to make it more easy to get folks the money that they have earned and so that they can take care of themselves and their families.

So, to those ends, what we are going to cut to make things easier to do business, to make it more hospitable to do business in America, I need you to inform us how we can keep our promises to the taxpayers, to our constituents, to our customers, to lower prices, bring back jobs, and keep our communities safer.

By expounding a little bit, this is to no one in particular, because you all have expertise here and I only have 3 minutes, but how do we help remove unnecessary bottlenecks? What are the onerous regulations that we can get out of your way so you can be more successful? And what technological improvements can we assist with helping you move forward?

Mr. JEFFERIES. I am not shy. So, one, I think as an industry that spends average \$24 billion of our own capital every year putting it back into our network and also partners with States, localities on public grant programs for projects of big significance throughout the country, it is, how do we put that money to work more quickly? How do we get through reviews, permitting, et cetera, in a much more predictable, rational way that provides certainty to our folks who are making investment decisions? Again, all folks need a certainty about what to expect, and they can manage that process.

Two, it is really looking at the regulatory framework, and how do we make sure it is focused on the future, how do we make sure

it is focused on innovation, how does it champion technological deployment? How do we modernize the regulatory structure? And that doesn't mean always just getting rid of regulations, it is adjusting for the present day and for the future so that we can be more nimble and we can evolve as required.

We can go on and on, but I don't want to take—

Mr. JAMES [interrupting]. You have 2 minutes.

Mr. SPEAR. That is fine. I was told I talk too much, so—not you, me.

But I would just say, listen, really quick, I think the bottlenecks have been very much covered. I think they are going to be released next week. We will certainly send it up to you. You can prioritize and see where everybody ranks around the country. That is a road-map. That is where DOT should be centering its gravity. Alleviating congestion brings down inflation. It improves safety, it lowers fuel burn, it lowers emissions. These are all good things. There is something in that for everybody. And it is such an easy list to look at. You can see where it is happening.

On a more regulatory front, we talked earlier about our workforce. Listen, with all these States, Canada included, legalizing recreational marijuana, we need tools to deal with this. We need hair testing, OK, beyond urinalysis. We need to make certain that people getting behind the wheel of an 80,000-pound vehicle are not impaired. And we want to work with you.

And that channel conflict on the regulatory front between HHS and DOT is real. They do not communicate. They are not willing to cut a deal on this thing. We have told them to do this, legislated this, and now we are back before you again to deal with it. This is going to create a very litigious environment if we do not deal with the regulatory framework that oversees an interstate commerce industry like ours. So, hair testing would be very appreciated, and we look forward to working with you on it.

Mr. JAMES. Thank you, Mr. Chair. I yield back.

Dr. VAN DREW. I now recognize Mr. Duarte for 5 minutes of questioning.

Mr. DUARTE. Well, thank you, gentlemen. Thank you, Chairman. I appreciate being here today.

I represent a rural district in California that sits right outside of San Francisco. We ship a lot of almonds out of our district. We ship a tremendous amount of ag commodities to west coast ports. And we also have a large commuter pool that travels or tries to travel daily from Lathrop, northern and southern parts of my district, into the bay area, one of the most dynamic job markets in the world. And I am very concerned about two things. And I will welcome answers from any of you. I have read all of your comments that were submitted, so, thank you for that.

One is, are my constituents getting their best bang for their buck out of the Infrastructure Investment and Jobs Act, or is America hamstringing our ability to add the lanes that working families need to get to work with carbon, Buy American? Do we have the power grid to support a long-term production of domestic building supplies, rebar? Does anybody want to build a steel plant in America today with the carbon policies hanging over us? I would like some very candid answers to that.

And then, we have also understood that on the port side, a great deal of our backlogging at the ports—there have been some bank reports. Rabobank did a very extensive report on nut supply chain issues—peanuts, walnuts, almonds, pistachios—and really pointed out shipping company consolidation in the last decade as being a major culprit of, I would call, a planned scarcity of shipping capacity that spiked revenues and increased shipping company profits extraordinarily.

So, please, any of you that would like to address any of those issues I'll welcome.

Mr. REGAN. To answer your first question about whether or not people want to make steel plants in this country, I have spoken to iron, steel, aluminum manufacturers, they want to expand their capacity, they are ready to do that. And we want to help them do that. And if we wanted to find how are we are getting the best bang for our buck, if you want to be able to have the cheapest stuff, that is one way to define it. In my view, making sure that we are using this massive expenditure to also invest in our communities, that means investing in our manufacturing capacity as a country so we are not relying on overseas for manufactured goods. I think that is a really good bang for our buck long term for our country. I also think investing in good jobs, making sure that there are decent wages and decent benefits so that people have disposable income to reinvest in their communities. That is a pretty darn good bang for your buck.

In addition to delivering really high-quality transportation systems in this country, I think doing it the right way has monumental benefits outside of just the new roads or the new train route. I think that we can actually invest in our communities and our people in a way that we haven't always done in the past.

Mr. DUARTE. Excellent. Thank you.

Mr. GUENTHER. I would just add that, are they getting the bang for their buck, you made some comments earlier about your agricultural constituents field growing walnuts, shipping them around the country. The assets in an efficient supply chain, whether that is in the waterways or the highways or the infrastructure, getting it to and from the port efficiently should be first and foremost. The more we can put on the ship and the quicker we can get it through our ports, the better off for your constituents.

Mr. DUARTE. I agree. In summary, my platform is abundance. We need abundant food, abundant energy. And logistics are a major factor in abundance. And abundance to working families is affordability, and my district is entirely working families.

Mr. GUENTHER. Yes. No doubt. And an efficient terminal, the trucker deserves a clean run through there. They need to be serving the rail, all of the modes of the supply chain need to be efficient or it is passed onto the consumer, whether it is an import or an export of those goods.

Mr. FIRTH. Yes. I think the best bang for the buck, the American people are going to see it maybe not right now, but later. I think back to when the highway system was built back in, what, the fifties and the sixties, it probably wasn't recognized right at that moment, but it catapulted America later on down the road. I think that is where something today is that with the IJJA money, we are

going to be able to see that that is going to take America further down the road and be——

Mr. DUARTE [interrupting]. Is it going to manifest itself in markedly better freeways, easier commutes to work, better logistics in our products and goods getting to markets and getting to consumers in ways that improve their lives?

Mr. FIRTH. I think so.

Mr. DUARTE. Are there ways to make that even better?

Mr. FIRTH. Well, you have kind of heard me talking about permitting. That is kind of one of my hot buttons, is that streamlining permitting, we have got to get it built first. And so, if we want greener and faster and everything better, it starts with permitting, we have got to figure that out.

Mr. DUARTE. Thank you.

Dr. VAN DREW. Thank you. The gentleman's time has expired. And the gentleman yields back.

Are there further questions from any member of the committee who has not been previously recognized?

Seeing none, that concludes our hearing for today. I would like to thank each of the witnesses for your testimony.

I ask unanimous consent that the record of today's hearing remains open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing.

Without objection, so ordered.

I also ask unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

The committee stands adjourned.

[Whereupon, at 2:37 p.m., the committee was adjourned.]



## SUBMISSIONS FOR THE RECORD

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**Letter of February 10, 2023, to Hon. Sam Graves, Chairman, Committee on Transportation and Infrastructure, from Christine M. Burgeson, Senior Vice President, Airlines for America, and attached aviation stakeholders letter of November 15, 2022, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 10, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Committee on Transportation and Infrastructure, U.S. House of Representatives,*  
*2165 Rayburn House Office Building, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND MEMBERS OF THE COMMITTEE:

Thank you for holding the hearing entitled “The State of Transportation Infrastructure and Supply Chain Challenges” earlier this month. Like many on the official witness panel, aviation too faces supply chain challenges.

While there are certainly many supply chain challenges across the aviation sector, we would like to draw your attention to one key supply chain breakdown that is of particular and timely concern. On November 15, 2022, a broad group of aviation stakeholders wrote the Administration regarding their commitment to finding reasonable solutions that allow implementation of 5G while addressing safety and operational disruptions in the National Airspace System. One component of those reasonable solutions is the ongoing effort to retrofit impacted aircraft with radio altimeters (RAs) that are not susceptible to interference from 5G signals. The aviation community has been actively and aggressively engaged in meeting retrofit deadlines, however, supply chain challenges and certification solutions are making deadlines difficult, if not impossible, to meet. In particular, the letter stated:

“Unfortunately, due to global supply chain issues, lack of a certified solution for one key RA, and the FAA only recently identifying the criteria for RAs that would not need to be changed, RA manufacturers and air carriers will likely be unable to fully meet either the December 2022 deadlines for smaller regional aircraft and many large transports nor the July 2023 retrofit deadline, though we continue to do everything within our power to do so. Further, all this investment will be wasted if a long-term mitigation plan is not put in place and codified in regulation, as additional wireless providers that have not been part of these interim voluntary efforts begin to provide services.”

We respectfully request the Committee consider including the attached aviation stakeholder letter in the hearing record to make sure the Committee is aware of these acute supply chain challenges and the mitigations necessary to address them.

Thank you for your consideration,

CHRISTINE M. BURGESON,  
*Senior Vice President, Airlines for America.*

## ATTACHMENT

NOVEMBER 15, 2022.

The Honorable BRIAN DEESE,  
*National Economic Council Director,  
 Executive Office of the President, 1600 Pennsylvania Avenue, NW, Washington, DC  
 20500.*

The Honorable GINA M. RAIMONDO,  
*Secretary of Commerce,  
 U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC  
 20230.*

The Honorable PETE BUTTIGIEG,  
*Secretary of Transportation,  
 U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC  
 20590.*

The Honorable ALAN DAVIDSON,  
*Assistant Secretary of Commerce for Communications and Information,  
 National Telecommunications and Information Administration, U.S. Department of  
 Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.*

Mr. BILLY NOLEN,  
*Acting Administrator,  
 Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC  
 20591.*

DEAR DIRECTOR DEESE, SECRETARY RAIMONDO, SECRETARY BUTTIGIEG, ASSISTANT  
 SECRETARY DAVIDSON AND ACTING ADMINISTRATOR NOLEN:

It has been more than a year since a coalition of aviation stakeholders met with the National Economic Council (NEC) to discuss the need for C-Band 5G implementation to occur without sacrificing aviation safety. This meeting came after years of meetings and letters to the Federal Communications Commission (FCC), the National Telecommunications and Information Agency (NTIA) and the Federal Aviation Administration (FAA) raising significant concerns over the FCC's auction of the 3700–3980 MHz spectrum (C-Band) and how it will impact radar altimeters (RAs) and the continued safe operation of commercial aircraft within the National Airspace System (NAS).

Those meetings, and the last-minute intervention of the Secretary of Transportation prevented the grounding of a significant portion of the US commercial aviation fleet. This marked the beginning of a collaborative and fruitful discussion between the telecommunication industry, specifically Verizon and AT&T, and the aviation industry. However, after a year of discussions and despite accommodations made by all parties, we are now seven months away from the next deadline, with significant risks still unresolved. We believe that by finding accommodations now, we can prevent another last-minute herculean intervention by the Administration and major disruption to our air transport system.

The baseline situation remains unchanged. Our industry is strongly supportive of the deployment and implementation of 5G services nationwide, but we will not compromise aviation safety. Since our conversations last winter, the FAA has verified that certain aircraft RAs are susceptible to interference from 5G signals with a subsequent degradation of safety. Since January 2022 the FAA has documented over 100 FAA incidents of potential 5G interference, the majority of which were found to have a direct RA impact resulting in safety alerts by systems such as the Terrain Avoidance Warning System. Unfortunately, the US government agencies do not appear to be on the same page with respect to these safety issues. As a result, aviation stakeholders are caught in the middle and ultimately passengers and shippers will be the ones who will bear the brunt of any operational disruption caused if this issue is not resolved.

Inter-agency government progress appears to be at a stalemate, while stakeholders are doing their part to address these issues. Aviation stakeholders, the FAA, and AT&T and Verizon have spent much of the last year trying to understand and implement what is required to continue safely operating aircraft in a 5G environment. This has required compromise, understanding, and investment by all parties. AT&T and Verizon implemented various mitigations, such as taking a phased approach to maintain lower power levels near airports and tilting antennas downward and have agreed to continue those mitigations through July 2023. The aviation industry is taking on the burden of designing and implementing a fleet retrofit to ensure that RAs are not compromised and retrofitting the entire fleet in less than two years is unprecedented.

Unfortunately, due to global supply chain issues, lack of a certified solution for one key RA, and the FAA only recently identifying the criteria for RAs that would not need to be changed, RA manufacturers and air carriers will likely be unable to fully meet either the December 2022 deadlines for smaller regional aircraft and many large transports nor the July 2023 retrofit deadline, though we continue to do everything within our power to do so. Further, all this investment will be wasted if a long-term mitigation plan is not put in place and codified in regulation, as additional wireless providers that have not been part of these interim voluntary efforts begin to provide services.

Our aviation coalition strongly believes that instead of once again waiting until the eleventh hour, now is the time for the leadership at federal agencies and the White House to implement a solution that allows 5G to move forward and avoid further flight delays and cancellations. The FAA recently sent a petition to the NTIA and FCC requesting a codification of reasonable mitigations. While we have not seen the FAA's official petition to the NTIA and FCC, the FAA has informed stakeholders that to continue the operational safety of the NAS, the FCC rules and applicable Report and Order FCC-20-22 should be modified to address safety issues raised by the FAA. Furthermore, as the FCC, NTIA and FAA work to codify these requirements, it is critical to extend these mitigations through the end of 2023 to allow airlines time to complete the retrofit. We respectfully request that the US government share with stakeholders and the public the entire content of the petition by Friday November 18, 2022. The public has a strong interest in having access to the basis for concerns about aviation safety.

We will continue to be committed to finding reasonable solutions that allow implementation of 5G while addressing safety and operational disruptions in the NAS. Stakeholders cannot do this alone and we need the federal government to codify mitigations for all airports and extend the July 2023 and "Power Up" retrofit deadlines. The entire government must work together to ensure future 5G deployment is unencumbered and our aviation system remains the safest in the world. Aviation stakeholders call on the Administration to meet with us to discuss a way forward that will achieve the goal of moving 5G forward, while ensuring passengers and cargo reach their destinations safely and on time.

Sincerely,

AEROSPACE INDUSTRIES ASSOCIATION.	GARMIN.
AEROSPACE VEHICLE SYSTEMS INSTITUTE.	GENERAL AVIATION MANUFACTURERS ASSOCIATION.
AIR LINE PILOTS ASSOCIATION, INTERNATIONAL.	HELICOPTER ASSOCIATION INTERNATIONAL.
AIRBORNE PUBLIC SAFETY ASSOCIATION.	INTERNATIONAL AIR TRANSPORT ASSOCIATION.
AIRBUS.	NATIONAL AIR CARRIER ASSOCIATION.
AIRCRAFT ELECTRONICS ASSOCIATION.	NATIONAL BUSINESS AVIATION ASSOCIATION.
AIRCRAFT OWNERS AND PILOTS ASSOCIATION.	REGIONAL AIR CARGO CARRIERS ASSOCIATION.
AIRLINES FOR AMERICA.	REGIONAL AIRLINE ASSOCIATION.
ALLIED PILOTS ASSOCIATION.	RTCA.
BOEING.	THALES.
CARGO AIRLINE ASSOCIATION.	
COLLINS AEROSPACE.	
EMBRAER.	
EXPERIMENTAL AIRCRAFT ASSOCIATION, INC.	

cc: Jessica Rosenworcel, Chairwoman, Federal Communications Commission

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**Report, "The Safety Impact of Technology and Crew Size: An analysis of accident data, incorporation of technology, and train crew staff levels on rail safety trends," B. Dierker, December 2022, Alliance for Innovation and Infrastructure, Submitted for the Record by Hon. Sam Graves**

The 73-page report is retained in committee files and is available online at <https://www.ait.org/wp-content/uploads/2022/12/The-Safety-Impact-of-Technology-and-Crew-Size.pdf>.

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**Letter of February 1, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Chet Thompson, President and CEO, American Fuel & Petrochemical Manufacturers, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 1, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Committee on Transportation and Infrastructure, 2165 Rayburn HOB, Washington,*  
*DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*Committee on Transportation and Infrastructure, 2164 Rayburn HOB, Washington,*  
*DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN,

The United States' integrated network of pipelines, ports, waterways, roadways, and railroads is critical to supply chains and hence the nation's economy. Midstream infrastructure delivers oil and gas from upstream production fields to refineries and petrochemical manufacturing facilities, and essential products from those facilities to consumers across the country. Without this critical infrastructure, energy and chemical supply chains would grind to a halt.

American Fuel & Petrochemical Manufacturers ("AFPM") is the leading trade association representing U.S. refiners and petrochemical manufacturers, whose products make modern life and transportation possible. We greatly appreciate your committee's attention to important supply chain issues. While the February 1st hearing will be an important forum to discuss these issues, it is missing a key voice: the shipper community.

As one of the largest groups of shippers in the nation,<sup>1</sup> AFPM submits this statement for the record sharing our members' perspective on the current state of the United States supply chain. While AFPM members utilize all aspects of midstream infrastructure, this statement focuses on freight rail, as it poses the most significant challenges to our operations and supply chains. Indeed, reduced rail competition and the resulting deterioration in service have greatly hindered our members' ability to move feedstocks to their facilities and products to consumers.

A healthy, efficient rail system helps the United States economy thrive and benefits all parties, including railroads, rail shippers, and ultimately consumers. Unfortunately, over the past few decades, through consolidation the number of major United States railroads has drastically contracted, resulting in decreased rail competition, degraded rail service, exponential rate increases, and higher prices for consumers.<sup>2</sup> The negative impacts of this consolidation have been exacerbated more recently by widespread adoption of cost-cutting operating models and myopic focus on short-term profits, which, in turn, have led railroads to slash their workforce, shelve equipment, and close railyards across the country.<sup>3</sup> The result of these measures has been widespread delays and embargoes and increased costs for consumers.<sup>4 5</sup>

The Surface Transportation Board (STB) is the sole federal agency charged with resolving commercial freight rail issues, including service, competition, and rates. We applaud STB's recent efforts to improve rail service and address freight rail challenges. But, with Congress's help, more can be done.

AFPM supports bipartisan legislation to reauthorize the STB and to provide it with the resources and authorities it needs to quickly address rail service issues. More specifically, AFPM encourages Congress to:

<sup>1</sup> Our members rely on the rail network to get feedstocks to our facilities and products to market. Annually in the United States, over 2 million carloads of our members' feedstocks and products, including crude oil, natural gas liquids, refined products, petrochemicals, and plastics are transported by rail. See "Freight Rail Facts and Figures" February 2022, see <https://www.aar.org/facts-figures>

<sup>2</sup> See <https://www.afpm.org/newsroom/blog/freight-rail-america-can-market-be-free-if-theres-almost-no-competition>

<sup>3</sup> Class I railroads cut 45,000 jobs from 2016 to 2021—nearly 30% of their workforce according to STB data.

<sup>4</sup> Last spring and summer, two Class I railroads announced temporary embargoes of shipments that impacted the refining and petrochemical industry. In addition, the use of embargoes related to general network congestion has exponentially increased with one railroad increasing embargoes by 2,000% since 2017. See Docket EP 772 [https://dcms-external.s3.amazonaws.com/DCMS\\_External\\_PROD/1669134260584/51506.pdf](https://dcms-external.s3.amazonaws.com/DCMS_External_PROD/1669134260584/51506.pdf)

<sup>5</sup> Transportation and distribution costs account for between 5–17 percent of the price a consumer pays for a gallon of gasoline or diesel. See Gasoline and Diesel Fuel Update—U.S. Energy Information Administration (EIA).

*Update the Common Carrier Obligation:* As defined in the Staggers Act, the “common carrier obligation” requires that rail carriers serve the wider shipping public “on reasonable request.” Recent railroads actions (e.g., drastic reduced service schedules and exponentially increased usage of embargoes) highlight the need to address what a reasonable level of service is under the common carrier obligation. Rail carriers are extremely averse to including even the most basic service delivery standards in contracts, particularly for captive rail shippers. Such standards would improve service reliability and allow manufacturers and refiners to plan accordingly and avoid facility slowdowns or unexpected outages. Congress should clarify service obligations and hold railroads accountable to those standards.

*Foster Increased Competition in Freight Rail:* AFPM believes in free market solutions, but the free market does not work when there is no competition, or even a realistic threat of competition. Congress can help support STB by allocating it additional resources to address open rulemaking dockets, including Reciprocal Switching (Docket EP 711). With well-designed reciprocal switching provisions in place, railroads would be faced with a simple decision, provide better service to rail shippers or risk losing business to a competitor.

*Enhance the STB’s ability to address critical service issues:* In the past two years, rail service delivery issues have caused facilities in critical industries to slow or temporarily cease operations and to seek costly shipping alternatives, all at the expense of the American consumer. Congress should grant STB additional emergency authorities to quickly address service disruptions in critical industries such as refining and petrochemical manufacturing.

*Recognize current state of rail car ownership:* Current law allows railroads to charge shippers fees (demurrage) when shippers are slow to load or unload rail cars. Rail car ownership has shifted such that rail customers now own approximately 75 percent of freight rail cars. Despite this shift in ownership and maintenance responsibility, rail car owners do not have the ability to charge fees when the railroads are slow to deliver or pick up cars. Congress should recognize that both shippers and railroads have a responsibility to keep rail cars moving and allow shippers who own or lease their own rail cars to assess a fee on railroads when railroads delay moving rail cars efficiently.

Congress passed the Ocean Shipping Reform Act of 2022 to address the negative impacts of consolidation in the shipping industry and to alleviate supply chain issues in ocean freight shipping. This bipartisan action was roundly applauded and is helping United States consumers and businesses. Port congestion has improved, and ocean shipping rates have steadily declined since the passage of this act. We urge Congress to replicate this success with freight rail by adopting the above recommendations and reauthorizing the STB.

Thank you again for your attention to this critical issue.

CHET THOMPSON,

*President and CEO, American Fuel & Petrochemical Manufacturers.*

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**Letter of February 15, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Chris Spear, President and Chief Executive Officer, American Trucking Associations, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 15, 2023.

The Honorable SAM GRAVES,  
*Chairman,*

*Committee on Transportation and Infrastructure, United States House of Representatives, 2164 Rayburn House Office Building, Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*

*Committee on Transportation and Infrastructure, United States House of Representatives, 2165 Rayburn House Office Building, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

On behalf of the American Trucking Associations (ATA), I would like to thank you for the opportunity to testify before the House Transportation and Infrastructure Committee at the hearing titled, “The State of Transportation Infrastructure and Supply Chain Challenges.” During the hearing, Delegate Eleanor Holmes Norton (D–DC) submitted a letter for the record on behalf of the Advocates for Highway & Auto Safety (AHAS) that disparages the trucking industry and casts doubt upon the industry’s commitment to highway safety. Interestingly, although the letter was written by an organization that claims to prioritize and champion the safety of our nation’s roadways, the letter fails to mention one of the leading causes of highway fatalities—impaired driving—and instead regurgitates a litany of misrepresentations about the trucking industry’s safety record. In light of the shortcomings of the letter submitted for the record, and as a testament to ATA’s commitment to achieving zero highway fatalities, I will correct the inaccuracies in the letter, as well as provide recommendations for how this Committee can take steps to protect the safe and efficient movement of our nation’s goods.

#### THE TRUCKING INDUSTRY’S INVESTMENT IN HIGHWAY SAFETY

To paint the trucking industry as an industry that is unsafe and willing to cut corners at all costs is both misleading and patently false. Safety is, and always will be, the foundation of the trucking industry, shaping our core values and decision making. We are so confident in these efforts that ATA is currently undertaking a “safety investment study” with our members to highlight the investments the industry is making annually. The last version of this study, which was conducted nearly 7 years ago, found that the industry invests nearly \$9.5 billion annually in safety initiatives, including onboard technologies such as electronic logging devices, collision avoidance systems, and brake-activated pulsating warning lamps. Our investments also included driver safety training, driver safety incentive pay, and mechanisms to ensure compliance with safety regulations. While misinformed individuals claim that the trucking industry spends this money because it is required to do so by law, the simple fact is that many of these investments go above and beyond the requirements established in state and federal regulations. These investments also go towards addressing issues of highway safety that are not necessarily specific to trucking. Unlike some so-called safety organizations, the trucking industry does not sit idly by and say, “It’s not our problem” and point the finger elsewhere. We choose to work collaboratively with all stakeholders—whether we agree or not—to advance our common goal of improving highway safety. This is evidenced by our recent commitment to the U.S. Department of Transportation’s (USDOT) newly established National Roadway Safety Strategy (NRSS). ATA was one of 49 “first movers” that committed to specific actions to address highway safety.<sup>1</sup> These actions will not only focus on trucking, but on *all* highway users.

#### IMPAIRED DRIVING AND NEED FOR IMPROVED TESTING

It is baffling that the topic of impaired driving was not included in the AHAS letter. This was especially surprising considering the organization claims to be dedicated to identifying drug use in the trucking industry. ATA is happy to fill this glaring information void and help move the needle on this critical issue because we prioritize action to advance highway safety.

ATA is troubled by the correlation between marijuana legalization efforts at the State level and the increase in the number of positive marijuana tests reported to USDOT’s Drug and Alcohol Clearinghouse. The impacts of marijuana legalization affect all highway users, and I want to note for the record that ATA has pleaded loudly for better controlled substance testing methods within our own industry. ATA strongly supports the use of hair testing as an independent, alternative drug testing method for commercial motor carriers to meet federal drug testing requirements. Private industry and governments worldwide have embraced hair testing due to its efficacy as a critical safety tool, but the U.S. trucking industry remains limited in its ability to fully utilize this proven drug testing method because it does not meet federal requirements. Hair testing is a proven and effective method for detecting illegal drug use. Federal acceptance of hair testing as an independent, alternative testing method would allow employers to use this testing method to identify a greater number of safety-sensitive employees who violate federal drug testing regulations and keep these unsafe drivers off the road. Critically, federal adoption of hair testing would allow motor carriers to report positive hair test results to USDOT’s Drug and Alcohol Clearinghouse. Closing this glaring loophole will create a safer, drug-

<sup>1</sup> <https://www.transportation.gov/nrss/allies-in-action>.

free workforce and prevent drivers with unresolved drug violations from driving alongside the motoring public. Despite the absence of any meaningful advocacy from so-called safety groups to address the rise in impaired driving, ATA remains steadfast in its support of hair testing as a way to curb this dangerous trend.

#### TRUCK DRIVER SHORTAGE AND YOUNGER PROFESSIONAL DRIVERS

Denying the existence of the driver shortage is absurd. The trucking industry has been dealing with a pervasive driver shortage for years, and if conclusive data from the U.S. Bureau of Labor Statistics (BLS) is not convincing enough, one can simply drive down the highway and witness the ample evidence in the form of “CDL Drivers Needed” signs. The characterization of the shortage as a driver turnover issue demonstrates an alarming ignorance of the driver labor force. Safe, drug free drivers can leave a job for any reason at any time and easily get another driver job because the demand for such qualified drivers is so high. If a driver wants to go to another motor carrier for better pay, more time at home, or different routes, he or she can do so easily. In fact, the vast majority of turnover is churn in the industry, not drivers leaving the industry. It is the ultimate worker empowerment.

The AHAS letter that Delegate Holmes Norton submitted for the hearing record points to an analysis by the BLS that found “the labor market for truck drivers works about as well as the labor market for other blue-collar occupations” and “a deeper look [at the truck industry labor market] does not find evidence of a secular shortage.” In the spirit of transparency, it is important to note that the analysis was not conducted by or for the BLS. The BLS Director made a point to clarify this fact explicitly. Additionally, the analysis has been debunked on multiple fronts. For example, the authors overlook barriers to entry that are unique to truck drivers, such as an age requirement to obtain a commercial driver’s license (CDL) and strict drug testing in the industry. Indeed, this is a labor quality issue that the authors didn’t mention or account for, and they incorrectly assume all drivers (and would-be drivers) can enter and exit the industry as they please. We in the industry know that is untrue. Motor carriers frequently state that they get many applicants for driving jobs, but due to a host of reasons, like past convictions, driving records, age requirements, the inability to pass a drug test, and other issues, they cannot hire the vast majority of applicants.

Furthermore, the authors of the analysis failed to control for other factors impacting occupational changes, such as time away from home. This is particularly true in the over-the-road for-hire truckload segment, which is where the driver shortage is most acute. Most other blue-collar jobs do not require workers to go on the road for weeks at a time before returning home. For these and other reasons, the BLS analysis referenced in the letter should be significantly discounted by the Committee, or at the very least scrutinized for its obfuscation of fact.<sup>2</sup>

Finally, the driver shortage is not unique to the United States. According to the International Road Transport Union (IRU) in Geneva, Switzerland, many countries are similarly challenged by persistent driver shortages. For example, in September 2022, France had 23,548 unfilled truck driver jobs, and Germany had another 20,113 vacancies. Both Canada and Mexico have a driver shortage as well.<sup>3</sup> Furthermore, industry and governments in Europe are looking to lower the driver age requirement to help alleviate the shortage.<sup>4</sup>

Members of this Committee frequently ask what can be done to address the driver shortage in the U.S. While there is no silver bullet solution to address this multifaceted problem, ATA believes that allowing younger, qualified individuals to operate a CMV in interstate commerce is the best and most consequential action that Congress can take right now. Accordingly, ATA continues to pursue legislative and regulatory efforts to allow well-trained drivers under the age of 21 to operate a CMV in interstate commerce. While anti-truck groups continue to mischaracterize “teen truckers” as a threat to highway safety, the flippant mischaracterization of younger driver belies the facts: 18, 19, and 20 year olds with requisite skills and credentials are *already* allowed to drive commercial trucks and buses within state lines in 49 states and the District of Columbia. As part of President Biden’s historic Infrastructure Investment and Jobs Act (IIJA), the USDOT established the Safe Driver Apprenticeship Pilot Program which will allow an individual between the ages of 18 and 21 to operate a CMV in interstate commerce under strict training benchmarks

<sup>2</sup> <https://www.trucking.org/news-insights/ata-statement-flaws-bureau-labor-statistics-driver-shortage-article>.

<sup>3</sup> <https://www.iru.org/news-resources/newsroom/global-driver-shortages-2022-year-review>.

<sup>4</sup> <https://www.iru.org/news-resources/newsroom/tackle-driver-shortages-eu-must-remove-age-barrier-bus-drivers>.

and performance requirements.<sup>5</sup> One submission to the hearing record refers to this program as “basically a science experiment,” but yet again, the snarky rhetoric ignores the simple fact that 18-, 19-, and 20-year-olds can already operate a CMV on our roadways *today*.

Perhaps the most provocative and baseless claim argued in the AHAS letter and parroted by so-called safety organizations is the purported fatal accident involvement rates of CMV drivers under 19 and CMV drivers aged 19 and 20. These claims appear to have been cherry-picked from a single, non-governmental study<sup>6</sup> published 32 years ago in 1991. Curiously, the author of the study provided a caveat to his findings, warning that his estimates of accident rates were informed by dividing accident data from 1980–1984 (which was obtained, in part, by a telephone survey) by an admittedly incomplete, non-matching batch of travel statistics from 1986 (which was itself of insufficient sample size and also obtained via a survey).

The Safe Driver Apprenticeship Pilot Program is not about turning over the keys of the truck to any “teen driver.” Rather, it’s about providing qualified men and women with demonstrated aptitude the opportunity to master interstate CMV driving through a rigorous apprenticeship program. The apprenticeship program would require apprentices to complete a minimum of 400 hours of training under the supervision of an experienced professional driver and achieve 11 performance benchmarks—all on trucks equipped with state-of-the-art, National Transportation Safety Board-recommended vehicle safety technologies.

#### TRUCK SIZE AND WEIGHT

The AHAS letter promotes misinformation about proposals to increase the size and weight of commercial vehicles. We often hear claims that introducing double 33-foot trailer trucks, known as “Twin 33s,” would require an estimated one-time cost of \$1.1 billion to strengthen and/or replace 2,478 bridges. These figures should be approached with skepticism because USDOT itself acknowledged severe data limitations that prevented it from conducting a more robust analysis. One such deficiency is USDOT’s analysis of the impact of twin 33s on pavement and bridges. USDOT’s conclusions stem from an erroneous assumption that the companies that operate twin trailer trucks (i.e. less-than-truckload carriers) also have extensive single-trailer truck operations, and that nearly all of their single-trailer shipments would shift to twin 33’ trailers. We estimate that USDOT overstated these carriers’ single trailer miles by approximately 1,400%. Additionally, we estimate that total miles traveled by less-than-truckload (LTL) carriers are overstated by nearly 400%. These errors inaccurately increased total gross weight for LTL traffic, which resulted in inaccurate estimates for additional bridge costs.

Likewise, the safety impacts of larger trucks continue to be misconstrued and overinflated. While some contend that double trailer trucks have an 11 percent higher fatal crash rate than single trailer trucks and point to a USDOT study to support their claim, the reality is that the USDOT study actually found that multi-trailer trucks had a three percent *lower* crash rate than single trailer trucks. The only way that USDOT could reasonably produce a theoretical assumption that multi-trailer crash rates might be higher than single-trailer rates is by assuming that multi-trailer trucks would operate more frequently on lower-order roads than they actually do. Similarly, claims that overweight trucks pose a heightened safety risk are simply false. The favored argument against heavier trucks is that legally overweight trucks have longer stopping distances and are therefore more likely to be involved in a crash. This is *only* true if the weight exceeds the vehicle manufacturer’s rating. Adding axles or upgrading brakes would mitigate this concern and prevent heavier trucks from exceeding federal stopping distance standards. There is no reason to believe that a legally overweight truck has more overweight violations than standard trucks. If legally overweight trucks are so unsafe, why do 41 States allow maximum gross vehicle weights exceeding 86,000 pounds? Finally, drivers of longer trucks are required by law to undergo supplemental training and obtain license endorsements to ensure that these vehicles are operated responsibly and safely. There is no evidence to suggest that longer vehicles have a higher crash rate than more common trucks.

<sup>5</sup> <https://www.federalregister.gov/documents/2022/01/14/2022-00733/safe-driver-apprenticeship-pilot-program-to-allow-persons-ages-18-19-and-20-to-operate-commercial>.

<sup>6</sup> Campbell, Kenneth L. The University of Michigan, Transportation Research Institute, *Fatal Accident Involvement Rates By Driver Age For Large Trucks*, September 1991, <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/29197/0000251.pdf?sequence=1&isAllowed=y>.

## AUTOMATED VEHICLE DEPLOYMENT

The AHAS letter fails to adequately acknowledge that highly automated vehicles have the opportunity to increase highway safety. The USDOT has been reviewing their regulations to better understand and identify barriers to the safe deployment of automated vehicles. The Department's efforts have focused on where regulatory language assumes a human driver might be present. The DOT's focus is to broaden language so that a highly automated commercial motor vehicle (CMV) without a driver could be operated *within the same set of requirements* as human driven CMV. Additionally, FMCSA has released a Supplemental Advanced Notice of Proposed Rulemaking (SANPRM) entitled: Safe Integration of Automated Driving Systems (ADS)-Equipped Commercial Motor Vehicles (CMVs).<sup>7</sup> This SANPRM looks to gather information from industry on what *additional* considerations need to be made for a highly automated CMV in order to operate them safely on the nation's roadways. In short, the DOT is taking a prudent approach to both adapting existing regulations and exploring additional considerations to ensure highly automated CMVs are held to an *equal or higher standard* as human-driven CMVs.

While deployment is still in early stages, the DOT has already taken steps to monitor the complex landscape of commercial automated vehicles. The Standing General Order (SGO) issued by the National Highway Traffic Safety Administration (NHTSA) has given the DOT broad visibility into on-road incidents and a foundation for more focused efforts in the future. The DOT is also exploring the broader impacts of automation deployment and how ensure system-level safety of other road users sharing the road with automation. These are challenging topics that will require a collaborative approach with industry. Developers of highly automated CMV have consistently been working with industry, law enforcement, and the DOT to develop standards and best practices that would facilitate safe operation through inspection, wireless vehicle communication, visual signaling, and many other topics. The DOT and industry will continue to learn as technology matures and deployments expand, but the DOT's collaborative approach will ensure that highly automated CMV are operating in a safe manner.

## HOURS OF SERVICE AND FATIGUE

Contrary to insinuations in the AHAS letter, ATA is unwavering in its support of the use of Electronic Logging Devices (ELDs) and recognizes them as an effective tool in combatting driver fatigue. ATA members have long used ELDs, with many carriers installing this critical safety technology long before the Congressional mandate went into effect in December 2017. Accordingly, we whole-heartedly support the industry-wide adoption of ELDs and oppose efforts to further exempt their use.

While ELDs play a critical role in ensuring the accuracy of a driver's Hours of Service (HOS), we continue to see debate about the merits of the underlying HOS rules. ATA supported FMCSA's proposal to add flexibilities to the HOS rules in 2018, and we supported FMCSA's final rulemaking in June of 2020.<sup>8</sup> This final rule did *not* increase the time a driver could drive or be on duty, yet opposition groups immediately filed petitions for reconsideration to the rulemaking, which were ultimately denied by the Agency.<sup>9</sup> Despite this outcome, the same groups then proceeded to file a lawsuit against the Agency, claiming the final rule was "arbitrary and capricious for failing to grapple with the safety and driver health consequences of changes to recordkeeping rules for short-haul commercial vehicle drivers and break requirements for long-haul drivers." Despite their recycled claims, the United States Court of Appeals denied the petition, stating "the modification to the hours-of-service rules were sufficiently explained and grounded in the administrative record."<sup>10</sup>

ATA appreciates the opportunity to address and correct the inaccuracies and misrepresentations included in the AHAS letter that was submitted for the hearing record. Moreover, we appreciate the efforts of Members of this Committee to advance highway safety. ATA and the trucking industry remain unwavering in our commitment to improving the safety of our nation's roads and bridges, and working towards the ultimate goal of zero highway fatalities. We look forward to our continued work with your Committee, Congress, and the Administration.

Thank you for your leadership on these critical issues.

<sup>7</sup> <https://www.federalregister.gov/documents/2023/02/01/2023-02073/safe-integration-of-automated-driving-systems-ads-equipped-commercial-motor-vehicles-cmv>s.

<sup>8</sup> <https://www.federalregister.gov/documents/2020/06/01/2020-11469/hours-of-service-of-drivers>.

<sup>9</sup> <https://www.regulations.gov/document/FMCSA-2018-0248-8268>.

<sup>10</sup> <https://www.documentcloud.org/documents/22125483-advocates-for-highway-and-auto-safety-et-al-vs-fmcsa-appeal?responsive=1&title=1&onlyshoworg=1>.

Sincerely,

CHRIS SPEAR,  
President and CEO, American Trucking Associations.

**Letter of February 1, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Kristen Swearingen, Vice President, Legislative and Political Affairs, Associated Builders and Contractors, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 1, 2023.

The Honorable SAM GRAVES,  
Chairman,  
U.S. House Committee on Transportation and Infrastructure.

The Honorable RICK LARSEN,  
Ranking Member,  
U.S. House Committee on Transportation and Infrastructure.

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 members, I write to comment on the U.S. House Committee on Transportation and Infrastructure's hearing titled "The State of Transportation Infrastructure and Supply Chain Challenges."

ABC urges the committee to deliver relief for construction businesses faced with complex supply chain and labor market challenges, and ensure that the more than 88% of America's construction workers who choose not to belong to a labor union are provided the opportunity to participate in critical construction projects funded and authorized by the federal government.

SNAPSHOT OF THE CONSTRUCTION INDUSTRY SUPPLY CHAIN & INPUT PRICES:

According to ABC analysis of U.S. Bureau of Labor Statistics' Producer Price Index data, while construction input prices fell 2.7% in December 2022 compared to the previous month, overall construction input prices are 7.9% higher than a year ago and have increased by 36.1% since February 2020.

Construction has seen welcome declines in virtually all non-energy related construction input commodities, with crude petroleum prices falling sharply by 14.9%. However, with natural gas prices surging 45.3% in December and more than 315% since February 2020, costs are still high across the board for contractors.

Producer Price Index, December 2022

	1-Month % Change	12-Month % Change	% Change Since Feb 2020
Inputs to Construction	-2.7%	7.9%	36.1%
Inputs to Nonresidential Construction	-2.7%	7.6%	36.4%
Plumbing Fixtures and Fittings	-0.1%	9.2%	16.4%
Fabricated Structural Metal Products	0.1%	4.7%	52.7%
Iron and Steel	-0.8%	-24.4%	56.6%
Steel Mill Products	-2.7%	-28.7%	71.0%
Nonferrous Wire and Cable	1.0%	6.1%	48.1%
Softwood Lumber	-5.1%	-26.1%	23.6%
Concrete Products	1.0%	14.8%	26.3%
Prepared Asphalt, Tar Roofing & Siding Products	0.4%	11.7%	37.8%
Crude Petroleum	-14.9%	4.3%	51.1%
Natural Gas	45.3%	29.1%	315.6%
Unprocessed Energy Materials	9.5%	20.0%	123.5%

Source: U.S. Bureau of Labor Statistics

Contractors are also currently maintaining their longest backlog since 2019. According to ABC's Construction Backlog Indicator, backlog remains high thanks in part to an increase in infrastructure work—jumping from 6.7 months to 10.0 months. However, it is clear that small construction businesses continue to not only have the lowest average backlog (7.9 months), but that their amount of work con-

tracted to perform but have not yet completed has fallen while the expected work grew for all of the other larger categories.

Contractors enter the new year hopeful, and remain focused on growth, with expectations for rising sales and staffing levels over the next half year. ABC's Construction Confidence Index's reading for expected profit margins and sales increased in December, while the reading for staffing levels moved lower. All three readings remain above the threshold of 50, indicating expectations of growth over the next six months.

However, evidence suggests that financing commercial real estate projects faces growing difficulty, due in part to predictions of a looming recession. The general increase in the cost of capital has also jeopardized many projects, with certain contractors noticing an increase in postponements.

For Congress, this uncertain moment is an opportunity to ensure that our nation's contractors and construction workers are not contending with overly burdensome regulations along with rising material costs, skilled labor shortages and supply chain disruptions.

#### SNAPSHOT OF THE CONSTRUCTION INDUSTRY LABOR MARKET:

Construction is poised to power America's recovery and economic engine, as the industry offers competitive wages and many opportunities to both begin and advance. However, despite adding 28,000 jobs on net in December, according to ABC's analysis of data released by the U.S. Bureau of Labor Statistics, severe labor market conditions persist.

On a year-over-year basis, industry employment has risen by 231,000 jobs or 3.1%. Nonresidential construction employment increased by 17,900 positions on net, with growth in all three subcategories. Nonresidential specialty trade contractors added 10,200 net new jobs, while nonresidential building and heavy and civil engineering added 5,800 and 1,900 jobs, respectively. However, the construction unemployment rate rose to 4.4% in December while unemployment across all industries declined from 3.6% in November to 3.5% last month.

To help meet the demand for a skilled construction workforce, ABC member contractors use flexible, competency-based and market-driven education methodologies to build a construction workforce that is safe, skilled and productive. This all-of-the-above approach to workforce development has produced a network of ABC chapters and affiliates across the country that offer more than 800 apprenticeship, craft, safety and management education programs—including more than 300 government-registered apprenticeship programs across 20 different occupations—to develop the people who build America.

In the coming years, the federal government will pump hundreds of billions in new spending into our nation's most critical infrastructure. However, ABC remains concerned with provisions in recent legislation and regulations from the Biden administration that will take away worker freedom, making it harder to fill potential jobs and fully take advantage of much-needed investments in critical infrastructure across the country. ABC urges the committee to consider ways in which they can promote an all-of-the-above workforce development strategy—and not limit the benefits of federal legislation from reaching the vast majority of construction workers due to their labor affiliation.

#### PROJECT LABOR AGREEMENTS

ABC vehemently opposes several discriminatory policies the Biden administration is pursuing through executive orders, the regulatory process and the implementation of recently passed legislation, which will prevent many opportunities for the entire construction industry, particularly small businesses, to participate in infrastructure projects funded by this legislation.

Among these key concerns are President Biden's Executive Order 14063 and proposed rule implementing government-mandated project labor agreements on federal construction contracts of \$35 million or more, which will effectively prevent the vast majority of contractors from having a fair chance at competing on federal construction contracts. ABC estimates this proposal, once finalized, could affect 120 federal contracts valued at \$10 billion annually, which is roughly 40% of the value of federal construction put in place in 2021.

PLA mandates discourage the 88.3% of the private construction workforce that have already made the choice not to belong to a union and experienced nonunion contractors from competing to win taxpayer-funded contracts to rebuild their communities. By mandating PLAs, this EO will significantly exacerbate the ongoing construction workforce shortage, limit potential infrastructure investment by raising

costs by 12 to 20% per project and discriminate against nearly the nearly nine out of 10 construction workers who choose not to join a union.

For the rare nonunion construction workers permitted to work on a PLA project, provisions in PLAs result in the confiscation of 34% of a nonunion construction worker's compensation package unless they join a union and become vested in union plans.

ABC members are also concerned with language contained in federal agency grant opportunities that encourages state and local government grant applicants, to support PLA requirements in their application for federal grant funds. ABC has identified almost \$100 billion in federal grant programs that include the promotion of PLA mandates or union-only preference language in federal agency grant applications. This PLA "encouragement" language could have a chilling effect on otherwise qualified contractors bidding on projects in their communities, limiting competition and increasing costs.

ABC believes that taxpayer-funded construction contracts should be awarded through fair and open competition—guaranteeing the best value for hardworking taxpayers while prohibiting a rigged federal procurement process that discriminates against many small construction businesses. This is critically important as federal agencies begin to implement hundreds of billions in federal dollars for infrastructure construction projects authorized through the IIJA and ARP, which notably did not have any mention of PLAs, let alone mandate them on federal projects.

Further, ABC urges members of the committee to support the Fair and Open Competition Act, which would prevent federal agencies and recipients of federal assistance from requiring contractors to sign controversial project labor agreements as a condition of winning a federal or federally assisted construction contract. This bill would ensure that taxpayer-funded construction contracts are awarded through fair and open competition—guaranteeing the best value for hardworking taxpayers while prohibiting a rigged federal procurement process.

#### BUY AMERICA REQUIREMENTS

On Nov. 10, the U.S. Department of Transportation announced the expiration of a general waiver to Buy America requirements imposed by the IIJA. With this expiration, the IIJA's expanded Buy America requirements are now in effect for most federally funded infrastructure projects. The DOT proposed two narrower waivers that will exempt a limited number of projects from these requirements.

While ABC supports strategies to expand domestic jobs and manufacturing to avoid global supply chain disruptions and capture economic benefits within America, Buy America policies need to be balanced with safeguards against increased costs and/or delays of infrastructure projects funded by the federal government and ultimately taxpayers. ABC commented on the proposed waivers and urges the committee to ensure that the DOT carefully consider our recommendations to ensure Buy America requirements can be implemented with minimal disruptions to these critical infrastructure projects.

#### FEDERAL CONTRACTOR GREENHOUSE GAS DISCLOSURE & REDUCTION REQUIREMENTS

On Nov. 14, the Federal Acquisition Regulatory Council issued a proposed rule to amend the Federal Acquisition Regulation to require certain federal contractors to disclose their greenhouse gas emissions and set GHG emission reduction targets. Under the proposed rule, federal contractors who qualify as significant contractors, (those receiving between \$7.5 million and \$50 million in federal contracting obligations in the prior fiscal year) would be required to inventory their annual GHG emissions and disclose this information to the federal government.

ABC understands the need for assessment of greenhouse gas emissions by federal contractors but has concerns that the proposed rule will unnecessarily increase costs for federal contractors by imposing substantial new regulatory burdens. Requiring major contractors to set GHG reduction targets or forfeit the ability to win federal contracts is a significant and concerning expansion of executive power not authorized by Congress and may be subject to legal challenge, further creating additional risk and uncertainty for construction federal contractors and government stakeholders. Small business federal contractors will be especially harmed by the uncertainty and increased costs these requirements would impose, leading to decreased small business participation in federal contracting, which has already seen a 60% decline in the number of construction industry small businesses awarded a federal contract from 2010 to 2020.

## CONCLUSION:

ABC encourages the committee to promote inclusive, win-win policies that welcome all of America's construction industry to compete to rebuild our nation's crumbling infrastructure, increase accountability and competition and reduce waste and favoritism in the procurement of public works projects to better ensure the stewardship of taxpayer dollars.

Ultimately, in order to successfully implement this investment of taxpayer funds into high-quality infrastructure at the best price possible for Americans, Congress must ensure the door is open to all qualified contractors, including those composing more than 8.6 million workers (88.3% of the industry), and provide them with a fair chance at competing on government funded projects.

ABC and our members are committed to building taxpayer-funded projects with the highest standards of safety and quality. ABC members stand ready for the opportunity to build and maintain America's infrastructure to the benefit of the communities it serves. ABC appreciates the opportunity to comment on the committee's important work to improve our nation's infrastructure.

Sincerely,

KRISTEN SWEARINGEN,  
*Vice President, Legislative and Political Affairs,*  
*Associated Builders and Contractors.*

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**Statement of the Association of Equipment Manufacturers, Submitted for the Record by Hon. Sam Graves**

The Association of Equipment Manufacturers appreciates the opportunity to submit this statement for the record as the U.S. House Committee on Transportation and Infrastructure examines supply chain challenges and the state of U.S. transportation infrastructure.

The Association of Equipment Manufacturers (AEM) represents more than 1,000-member companies manufacturing equipment and providing services for the agriculture, construction, utility, mining, and forestry sectors worldwide. Our industry supports approximately 2.8 million jobs across all 50 states, represents 12 percent of the manufacturing sector in America, and contributes \$288 billion a year to the U.S. economy.

Safe and reliable infrastructure is dependent on equipment manufacturers to connect our nation. While the average person may not notice the construction crane in use to repair a bridge, or the paver in use to repair or expand a highway, they also may not realize what that equipment means to the efficient completion of a new road or upgrades to public transit systems.

Over the last decade, demand for heavy equipment has increased. However, the challenges confronting our national supply chains have already severely impacted the equipment manufacturing industry's ability to respond to this increase in demand for product. Average lead times for road construction equipment are projected to increase from 6.4 months in 2022 to 7.6 months in 2023. Similarly, average lead times for aggregate equipment such as crushers are expected to increase to 6.3 months in 2023, up from 5.6 months in 2022. This is especially critical given that many equipment manufacturers are already fully sold out for 2023. The current supply chain situation could mean that a contractor in need of a new excavator might not be able to bid on a new IJA-supported project.

The COVID-19 pandemic highlighted numerous issues with global supply chains and logistics. The equipment manufacturing industry had to adapt and find a way to move forward. Manufacturers improved communication lines with suppliers, increased safety stock, and expanded their supplier base. This proactive approach helped some alleviate supply chain constraints, but the industry still faces challenges in the acquisition of specialized parts and components.

Each piece of equipment utilizes thousands of specialized parts and components unique to the functionality of the equipment. Often, there are limited suppliers of specialized parts, forcing U.S. manufacturers and their global competitors to source their inputs from the same suppliers in the international marketplace. In a recent AEM survey of 179 equipment manufacturing companies, nearly all respondents (98 percent) continue to face supply chain issues with more than half of respondents (58 percent) experiencing continuously worsening supply chain conditions. Year to date, equipment manufacturers are seeing an average of 12 percent production loss, and are forecasting a slightly lower, but still significant production loss of 8.2 percent in 2023.

Thank you again for the opportunity to express the views of the U.S. equipment manufacturing industry on the state of transportation infrastructure and supply chain challenges. The effort to upgrade and modernize our infrastructure is just beginning. The 2.8 million men and women of the equipment manufacturing industry are ready to get to work and ensure that this investment ushers in a new era of economic prosperity for all Americans. We look forward to working with all members of the Committee to advance policies and agreements that strengthen American manufacturing and secure our nation's long-term prosperity.

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**Letter of February 8, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Jeff Farrah, Executive Director, Autonomous Vehicle Industry Association, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 8, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Committee on Transportation and Infrastructure, U.S. House of Representatives,*  
*Washington, DC 20510.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*Committee on Transportation and Infrastructure, U.S. House of Representatives,*  
*Washington, DC 20510.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN,  
 The Autonomous Vehicle Industry Association (“AVIA”) writes to thank you for holding the recent hearing on *The State of Transportation Infrastructure and Supply Chain Challenges*. AVIA looks forward to working with you to increase long term supply chain resiliency by encouraging the safe and swift deployment of autonomous vehicles (AVs) in the United States.

By way of background, AVIA is comprised of companies with technical expertise and experience in the technology, automobile, trucking and transportation network sectors. Bringing together their varied backgrounds, these companies formed AVIA to advance the tremendous safety, mobility and economic benefits of AVs to consumers in the safest and swiftest manner possible. Our members include Aurora, Cavnue, Cruise, Embark, Ford, Gatik, Kodiak, Lyft, May Mobility, Motional, Navya, Nuro, TuSimple, Uber, Volkswagen Group of America, Volvo Cars, Waabi, Waymo and Zoox.

Currently, companies, ports, and policymakers are working to accelerate short-term solutions to improve the supply chain. Few proposed solutions have addressed a significant supply chain challenge—the long-term truck driver shortage. The American Trucking Associations estimated in 2021 that the country is short 80,000 drivers. Without innovative solutions, this shortage is expected to double to 160,000 by 2030. The industry also faces extremely high turnover rates. For both new entrants and those considering retirement, the burden of long and stressful hours drivers spent away from their families outweighs the allure of a decent-paying long-haul job. Truck drivers face higher-than-average rates of smoking, high blood pressure, and diabetes.

Autonomous trucks can help make up the driver shortfall and serve as partners with drivers in the trucking ecosystem by backfilling the need for long-haul drivers while fostering short-haul jobs that alleviate the heavy physical and mental toll of long-haul driving. Autonomous trucks are not restricted to a human driver schedule, do not need to stop, and can unlock new agricultural markets by reducing spoilage. Policymakers should understand that truck drivers and autonomous trucks can co-exist together, while supporting the entire supply chain and U.S. economy.

Autonomous trucking has also already created thousands of high-paying jobs—vehicle operators, maintenance workers, technicians, engineers and more—and the sector's growth will require more new hires. The successful partnership of human-driven and autonomous trucks was confirmed by a study from the U.S. Department of Transportation projecting that autonomous long-haul trucks will create up to 35,100 jobs per year across the economy, raise wages for all American workers and spur \$111 billion in investment across the nation's economy.

Truck drivers are working hard, but the shortage is simply unsustainable. Already frustrated with rising prices and product shortages, U.S. consumers cannot afford to rely solely on stopgap, short-term measures to reinforce our supply chain

in the long term. The U.S. needs to move forward on autonomous trucks so goods can keep moving.

Sincerely,

JEFF FARRAH,  
*Executive Director, Autonomous Vehicle Industry Association.*

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**Statement of the Corn Refiners Association, Submitted for the Record by  
Hon. Sam Graves**

The Corn Refiners Association (CRA) appreciates the opportunity to provide the following statement for the record to the House Committee on Transportation and Infrastructure for its hearing examining transportation infrastructure and supply chain challenges.

CRA is the national trade association representing the corn refining industry of the United States. Corn refiners produce essential inputs for the American economy, including food, feed, pharmaceuticals, medical devices, personal care products, and a wide assortment of industrials ranging from construction adhesives to compostable plastics. Corn refiners produce hundreds of products with thousands of uses. CRA members process approximately 13% of the United States' corn supply, resulting in \$9.33 billion in value-added revenue. This accounts for 7,200 jobs and impacts an additional 160,000 jobs, with an annual economic impact of \$47.5 billion. Corn refining is today's leading example of value-added agriculture.

To serve this essential role in our food system and consumer products economy, CRA members depend heavily on an efficient, reliable, and affordable rail transportation network to transport product.

- Agricultural products contribute nearly 7.4%, or \$6.3 billion, of total rail revenue, with an additional 13%, or \$11 billion, from the transportation of food and wood products.
- Railroads originate 24% of U.S. grain shipments.
- Corn accounted for 691,000 carloads in 2020—approximately half of all grain carloads.
- Rail also dominates transport of corn gluten meal and corn gluten feed, essential animal feed products produced by corn refiners. 70–90% of CGM and CGF are transported by rail.

While railroad revenue and profits have been strong in recent years, rail service has deteriorated to such a degree that our industry is struggling to play its essential role in the food and agriculture system. The following is a summary of some of the impacts rail service failures had on our industry in 2022, and that continue into 2023:

- One corn refiner lost at least \$10 million in revenue due to delays.
- One CRA member endured losses of over \$11 million in lost bushels and grind over 2022 because they were unable to ship their products.
- On multiple occasions, corn refining plants were forced to temporarily cease operation because there were simply no cars available to deliver inputs or ship finished product. Our plants are complex industrial facilities intended to run 24 hours a day, 361 days a year, so these shutdowns and startups came at significant cost.
- Likewise, our members' customers had to shut down or slow down temporarily to accommodate the missing inputs.
- In other cases, our members had to buy product from one of their competitors to make up the difference.
- Because cycle times were up on average five days, members increased their leased car position by an additional 500 cars at a cost of at least \$6 million over 2022.

CRA also wishes to highlight the following concerns:

- Issues with switching in the first mile/last mile leaves inputs and finished product stranded at serving yards, often for days at a time.
- In an effort to fill gaps in rail service, members have used trucks where possible, but at substantial additional costs and strain on a fractured trucking market.
- Precision scheduled railroading (PSR), far from its intended result of increasing efficiency, has created total communication breakdowns. Facilities are not told when the daily switch will not happen as planned until a customer calls to report that a car did not arrive. There are often no responses from railroads to these delays.

- Actual and threatened embargoes at customer destinations routinely hinder shipping cars.

Alongside other shipper associations, CRA has participated in hearings and ex parte meetings before the Surface Transportation Board on proceedings that addressed some of the above. Regulatory relief on issues such as reciprocal switching are a key part of the long-term solution to increase competition and efficiency.

However, much more urgent action is needed.

Railroads must be held publicly accountable for fulfilling their duty to provide reliable service. Currently, railroads accept very little accountability for the repeated adverse consequences of their business decisions on customers. Absent such accountability, there is greater incentive for railroads to be responsive to Wall Street than to their customers and the overall public interest that is part of their common carrier obligation.

Further, Congress should consider what other tools it has at its disposal to increase competition, combat unfair business practices in the rail industry, and increase accountability for service failures. Specifically, we recommend Congress clarify the common carrier obligations, which require railroads to provide service “upon reasonable request.” A better definition of the common carrier obligations would provide clarity on the extent of STB’s authority to conduct oversight of the market.

CRA appreciates this opportunity to comment on these urgent issues.

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**Statement of Joanne F. Casey, President and CEO, Intermodal Association of North America, Submitted for the Record by Hon. Sam Graves**

On behalf of the Intermodal Association of North America (IANA), thank you Chair Graves, Ranking Member Larsen, and Committee Members for convening this hearing to discuss our nation’s critical supply chains. IANA applauds your leadership on this important issue and appreciates the opportunity to share our views. As you begin your work in the 118th Congress, IANA would be pleased to serve as a resource and looks forward to working with you toward our shared goal of enhancing intermodal supply chain fluidity, efficiency, and safety.

As the only transportation trade association that represents the combined interests of intermodal freight providers and customers, IANA represents more than 1,000 corporate members, including railroads, ocean carriers, ports, intermodal truckers and over-the-road highway carriers, intermodal marketing and logistic companies, and suppliers to the industry. IANA’s associate (non-voting) members include shippers (defined as the beneficial owners of the freight to be shipped), academic institutions, government entities, and non-profit trade associations.

IANA is pleased to offer the industry various technology tools and resources through its Information Services. These programs, which are designed to facilitate business processes and enable transactions, focus on information needs in the areas of environmental initiatives, risk management, safety, and security. Regulatory compliance and registration tools include the Driver Vehicle Inspection Reporting Service, the Global Intermodal Equipment Registry, and the Uniform Intermodal Interchange and Facilities Access Agreement. IANA also collects and maintains a range of data on the performance of the North American intermodal freight network. These databases provide critical tools for the effective management of business assets across the intermodal supply chain.

Intermodal freight transportation is the movement of cargo in shipping containers or trailers by more than one mode of transport—ship, rail, and/or truck. Globally, 95 percent of all manufactured goods are transported in a container at one point in their journey, generating over \$51 billion in intermodal revenues annually in the North American market.

Unlike single transportation modes, global and domestic intermodal freight supply chains are comprised of separate entities that work in concert to complete each intermodal movement. Together, third-party logistics providers, trucking companies, railroads, ports, and steamship lines provide a cost-effective, reliable, safe, and environmentally favorable way to move freight from origin to destination. Each link is a vital component of the overall intermodal supply chain and must operate seamlessly and efficiently to uphold systemwide performance and productivity levels.

The COVID–19 pandemic spurred rapid and unprecedented demand for freight services and supply chain capacity, demonstrating the critical importance of intermodal supply chains to transport and distribute essential goods. When much of the nation was asked to stay home, the intermodal industry continued working to deliver desperately needed medical supplies and equipment, food, as well as everyday

items previously taken for granted. Despite labor and capacity shortages, intermodal supply chains remained flexible and quickly adapted to accommodate shifting consumer patterns and demands.

IANA has supported the Biden-Harris Administration's ongoing work to address supply chain disruptions and develop holistic, systemwide, and industry-based solutions to advance our national goods movement network. Among other efforts, IANA has engaged with and served as a resource to the White House Supply Chain Disruption Task Force and the White House Port Envoy, the Federal Maritime Commission, and the U.S. Department of Transportation (USDOT).

IANA commends this Committee for its contributions to and enactment of the 2021 Bipartisan Infrastructure Law (BIL). In addition to the significant increase in funding available to freight infrastructure needs, we strongly support the BIL's establishment of the Office of Multimodal Freight Infrastructure and Policy within USDOT. Given the unique nature of intermodal transportation, a dedicated Freight Office stands to improve federal coordination and strategically address the diverse operational and economic needs of our interconnected intermodal freight system. It is IANA's hope that this newly formed office will serve an essential role in overseeing national freight system investments, guiding multimodal freight policy and planning, facilitating information sharing, and maximizing BIL resources. IANA and its diverse membership of supply chain participants are eager to work with the Freight Office and serve as industry partners.

Recognizing the broad array of issues the Committee on Transportation and Infrastructure is tasked with examining, IANA looks forward to working with the Committee on issues related to the long-term health of the United States supply chain. In particular, IANA's membership is eager to address:

- *Supply Chain Data Collection & Standardization*: The supply chain is a complex network of systems, each with unique stakeholders, standards, and requirements. Pandemic-related shipping challenges highlighted the supply chain's complexity and opaqueness, spurring discussion about the appropriate level of data sharing and standardization. Solutions must strike a delicate balance. While some level of data sharing and standardization is likely necessary to increase supply chain efficiency and visibility, viable solutions must recognize that 1) many supply chain stakeholders operate and/or are headquartered internationally, meaning consideration should be given to global solutions and the most appropriate facilitator(s); 2) some data is proprietary and serves as a competitive edge to private companies; 3) data must be sanitized such that its dissemination does not cause safety or security concerns; and 4) the process for collecting and disseminating such data must not be overly burdensome.
- *Project Permitting*: Although the BIL provided for some changes to the permitting process, IANA continues to advocate for the need to address inefficiencies and delays in the federal project approval process while upholding environmental protections. Existing permitting regulations can cause significant delays and associated cost increases in the construction of transportation projects, which hinder improvements that improve system fluidity. Reforms are needed to increase transparency and predictability by streamlining reviews and facilitating more effective coordination between federal agencies, particularly for large, intermodal projects that traditionally require the approval of multiple agencies or USDOT modal administrations.
- *Intermodal Infrastructure Funding*: Freight infrastructure investment contributes to economic growth and global competitiveness as well as job creation and improved quality of life. IANA strongly supports the funding increases provided by the BIL for various new and existing grant and formula programs with intermodal freight project eligibility. We recommend the Committee continue to support programs that not only address funding for and improvements to the nation's roadway, rail and bridge infrastructure system, but also allow for significant investment in non-highway intermodal projects as well as intermodal connectors, which are the links that facilitate the transfer of freight between modes. Currently, non-highway/ intermodal freight projects are eligible for a maximum of 30 percent of available funding annually under the Infrastructure for Rebuilding America (INFRA) grant program and National Highway Freight (freight formula) Program. Such a cap limits the ability to fund critical intermodal projects at the levels that are needed.
- *Truck Driver Shortage*: According to data produced in 2022 by the American Trucking Associations (ATA), the trucking industry is shy nearly 80,000 drivers relative to demand. The number is expected to rise as more drivers retire from the field and recruitment and retention fall short. Presently, drivers must be at least 21 years old to operate a commercial motor vehicle (CMV) in interstate commerce. This age barrier serves as a deterrent for 18- to 21-year-olds who are

interested in entering the workforce. Frequently these individuals undergo training and apprenticeship in other fields before their age qualifies them to operate a CMV in interstate commerce. IANA supports federal efforts that would allow for drivers between the ages of 18 and 21 to enter the interstate workforce, while maintaining safety objectives.

- *Worker Classification:* Motor carriers are crucial participants in the nation's intermodal network, particularly under the current conditions of workforce shortages, as evidenced in the previous comment re: driver issues. For over 35 years, the prevailing business model for motor carriers supporting intermodal freight movements by water and rail has involved the use of independent contractors as drivers. With an estimated 80 percent of intermodal truck drivers classified as independent contractors—many of which are small, minority-owned businesses—this business model is indispensable to the intermodal transportation and drayage industry. By offering operational and financial flexibility to intermodal motor carriers, this model allows drivers to adapt and respond to natural volatility in the intermodal transportation market. Each owner-operator makes a conscious decision to remain an independent contractor, but also has the freedom to choose to seek full-time employment in the trucking industry at any time. IANA strongly opposes any efforts to limit or eliminate owner-operators as independent contractor drivers for the intermodal industry. Such changes are currently under consideration by the Department of Labor (DOL) as outlined in its October 2022 Notice of Proposed Rulemaking. Several states have also sought to implement restrictive worker classification laws. In California, the issue has been the subject of an ongoing legal challenge in *California Trucking Association v. Bonta*. IANA has voiced its concerns to the DOL and other relevant entities, including states with similar initiatives as the DOL. We raise this issue in an effort to increase awareness of its potential adverse impacts to the health of the intermodal industry and its customers.
- *Train Crew Size:* Safety on our nation's railroads is, and always will be, a priority for the intermodal transportation industry. Current regulations, which do not mandate minimum crew size requirements or regulate the number of crew members located in the cab, have served the railroad industry well for many years. Without such burdensome requirements, railroads have upheld stringent safety standards and maintained strong safety records. Despite lengthy evaluations by the Federal Railroad Administration (FRA) and other regulators, some of which have spanned over 15 years, there remains a lack of data or safety justification to support the FRA's July 2022 Notice of Proposed Rulemaking, which would impose a minimum two-person crew mandate for most trains. In fact, many railroads—including short line, passenger, and most European railroads—already safely operate with a one-person crew in the cab. Crew size mandates would impose new burdens on the railroad industry, impacting its ability to make critical investments in safety technologies as well as other innovations to remain competitive and address customer needs. IANA has shared these concerns with the FRA and would appreciate Congress' support and oversight as the proposal moves forward.

Thank you for your time and your leadership in support of intermodal goods movement and its related issues. IANA looks forward to working with you and would welcome the opportunity to further engage with your offices. If you or your staff have any questions, please do not hesitate to contact me.



**Letter of February 15, 2023, and “Competing To Win” Report, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Ben Siegrist, Director of Infrastructure, Innovation, and Human Resources Policy, National Association of Manufacturers, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 15, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Committee on Transportation and Infrastructure, U.S. House of Representatives,*  
*Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*Committee on Transportation and Infrastructure, U.S. House of Representatives,*  
*Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN,

Congratulations on the recent and well-deserved honor of your selection to lead the House Transportation and Infrastructure Committee for the 118th Congress. Manufacturers are proud to support the T&I Committee’s mission as a sector that depends on safe personal and commercial travel, advanced technology and transportation equipment as well as strong and resilient infrastructure to support those systems.

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 13 million Americans, contributes \$2.81 trillion to the U.S. economy annually, pays workers over 18% more than the average for all businesses and has one of the largest sectoral multipliers in the economy. Taken alone, manufacturing in the United States would be the eighth-largest economy in the world.

As the committee embarks on the work outlined during your recent hearing titled *The State of Transportation Infrastructure and Supply Chain Challenges*, manufacturers look forward to working with you, your staff and all members of the committee to achieve sensible policies that will ensure American transportation networks are safe and secure and that the American economy remains competitive in a global marketplace.

In recent years, the NAM has worked closely with committee members to tackle issues of great national significance, from averting a potentially devastating strike on our nation’s freight rail networks to supporting passage of legislation authorizing generational investment into America’s infrastructure network. Additionally, this committee was instrumental in advancing legislation that provided much-needed relief to manufacturers reliant upon ocean shipping services at American ports.

More broadly, the NAM has produced a blueprint of the most critical actions policymakers can take that will strengthen American economic interests while focusing on improvements to global supply chains and domestic infrastructure: *Competing to Win*, which is attached to this submission.<sup>1</sup> The challenges faced by manufacturers are complex, varied and will require a concerted effort that is strategic and intentional to advance national interests. The range of actions the NAM recommends that Congress take are designed to achieve critical economic and strategic goals. The NAM respectfully encourages you to consider the following items, among others in *Competing to Win*, in order to immediately support manufacturers’ competitiveness and improve operational efficiencies across national industries and supply chains.

#### REFORM THE FEDERAL PERMITTING SYSTEM

Too often, manufacturers seeking to make significant investments in the United States face years-long delays in obtaining the permits needed to break ground on a project. Speeding the permitting process and establishing permit certainty will support industrial growth. Efforts to expand domestic energy production, upgrade our nation’s infrastructure, increase critical mineral extraction and processing and expand facilities are all dependent upon the success of advancing permitting reform. To that end, ensuring the Administration is following congressional intent regarding One Federal Decision from the bipartisan Infrastructure Investment and Jobs Act (IIJA) is key, as that mandate establishes strict permit review timelines and eliminates duplicitous efforts across various federal agencies. Moreover, key permitting

<sup>1</sup> National Association of Manufacturers, *Competing to Win* (Sept. 2022) available at [https://documents.nam.org/COMM/Competing\\_to\\_Win\\_2022.pdf](https://documents.nam.org/COMM/Competing_to_Win_2022.pdf).

authorities are rife with ambiguity and inconsistent terminology and need Congressional intervention in order to facilitate manufacturing expansion while achieving environmental stewardship.

#### GROW THE MANUFACTURING WORKFORCE

Manufacturers in the transportation sector and across all industries are facing a workforce crisis. Over the next decade, 4 million manufacturing jobs will likely be needed, and 2.1 million are expected to go unfilled because there are not enough potential workers with the skills needed in today's modern manufacturing sector. The effects of this shortfall will be felt across all industries and in all modes of transportation from trucking to rail to aviation and maritime shipping. According to a recent report by the NAM's workforce and education partner, the Manufacturing Institute, and Deloitte, the U.S. economy will be \$1 trillion smaller in 2030 if those positions are not filled.<sup>2</sup>

In order to fully address this challenge, the perception of manufacturing and industrial careers must be changed and there must be an effort to broaden recruitment pipelines to engage underrepresented populations and—with only 58 people actively looking for work for every 100 job openings—the potential workforce must grow. Reforming our nation's broken immigration system is a critical step to address some workforce needs. Manufacturers support securing our borders and reforming the immigration system to reflect the needs of the modern workforce, including addressing the existing backlog of immigration cases, providing certainty for individuals who are already in this country and updating our nation's approach to asylum seekers and refugees.

#### SUPPORT INVESTMENT IN AMERICA

Manufacturing is a capital-intensive industry. Facilities, equipment and machinery have long productive lives but require significant up-front capital investments. Reducing barriers to these investments will help grow the manufacturing base. In this regard, manufacturers urge lawmakers to take two actions.

First, funds that have been authorized to support the manufacturing economy should be disbursed quickly and equitably. Portions of the CHIPS and Science Act, the Infrastructure Investment and Jobs Act and the Inflation Reduction Act authorize investments in key parts of the transportation and manufacturing economy. Congress should work with the Administration to ensure that these funds reach manufacturers expeditiously and abide by the strictures of their legislative direction. NAM members proudly supported legislative efforts to proffer historic and much-needed investment into the nation's infrastructure systems to enhance economic competitiveness and improve business operations. As this committee reviews federal outlays and the enactment of laws authorized to upgrade and improve critical infrastructure, the NAM looks forward to providing industry perspectives on the progress of funding expenditures and related programs.

Second, lawmakers must ensure that the tax code supports private investment in manufacturing activities. Specifically, making the 2017 Tax Cuts and Jobs Act permanent would support small businesses, and reversing harmful changes to the tax treatment of research expenses, business loans and equipment purchases would benefit all manufacturers in America.

\* \* \* \*

As described during your recent hearing, the Transportation and Infrastructure Committee has laid out a vigorous agenda for the 118th Congress. As you seek to address issues affecting our national shipping supply chain, various modes of transportation and goods movement, oversight of federal programs authorized to improve infrastructure networks and continued regulatory review to keep American industries competitive, the NAM looks forward to continued engagement and providing ample industry input.

Thank you again for your continued focus on these important issues and working to enhance manufacturers' ability to compete.

<sup>2</sup>The Manufacturing Institute and Deloitte, *Creating Pathways for Tomorrow's Workforce Today: Beyond Reskilling in Manufacturing (2022)* available at [https://www.themanufacturinginstitute.org/wpcontent/uploads/2021/05/DI\\_ER-I-Beyond-reskilling-in-manufacturing-1.pdf](https://www.themanufacturinginstitute.org/wpcontent/uploads/2021/05/DI_ER-I-Beyond-reskilling-in-manufacturing-1.pdf).

Respectfully,

BEN SIEGRIST,  
*Director, Infrastructure, Innovation & Human Resources Policy,  
 National Association of Manufacturers.*

ATTACHMENT

**Report, “Competing To Win,” National Association of Manufacturers,  
 September 2022**

The 36-page report is retained in committee files and is available online at [https://documents.nam.org/COMM/Competing\\_to\\_Win\\_2022.pdf](https://documents.nam.org/COMM/Competing_to_Win_2022.pdf).

**Statement of Michael C. Seyfert, President and Chief Executive Officer, National Grain and Feed Association, Submitted for the Record by Hon. Sam Graves**

NGFA commends Chairmen Graves and Ranking Member Larsen for holding this hearing to learn about the state of transportation infrastructure and supply chain challenges.

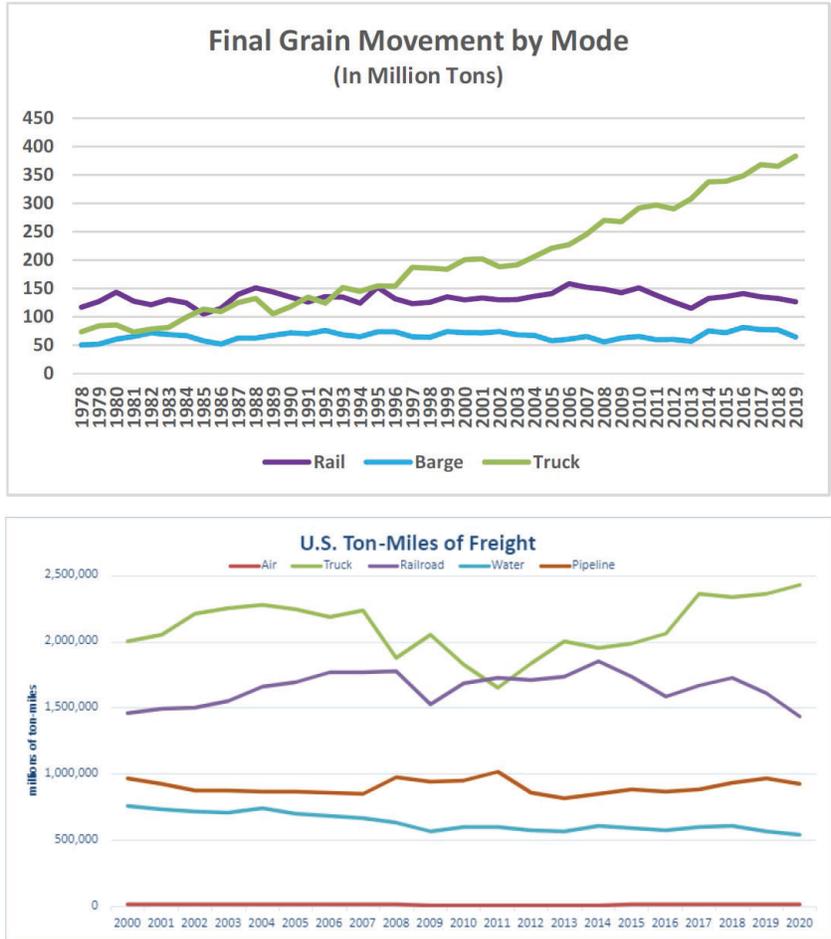
The NGFA consists of more than 1,000 grain, feed, processing, exporting and other grain-related companies and cooperatives operating more than 8,000 facilities. Our membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; transportation companies and associated firms that provide goods and services to the nation’s grain, oilseed, feed, and processing industry.

Efficient, reliable truck, waterborne and rail transportation are important to the grain and feed industry. For trucking, the challenge is simple. Additional freight capacity is needed; and the two largest constraints are available drivers and federal truck weight limits. NGFA supports efforts to add truck drivers and urges Congress to add capacity and efficiency by increasing truck weights limits.

For waterborne commerce, oversight of the Water Resources Development Act (WRDA) investments to modernize locks and dams on the inland waterways is critical to keep U.S. agriculture competitive in the global market. The Mississippi River and Columbia-Snake River Systems can impact trade because barges move about half of all grains to export grain elevators, including 48 percent of corn, 62 percent of soybeans and 47 percent of wheat. Critical farm inputs like fertilizer, feed, and fuel are transported via the inland waterways systems.

Importantly, navigational access must be maintained to the Lower Snake River Dams. The Columbia-Snake River System is the third-largest grain export corridor in the world, transporting nearly 30 percent of U.S. grain and oilseed exports through a sophisticated navigation system to deliver high value farm products safely and efficiently to West Coast ports and consumers worldwide. Barging is the most fuel-efficient way to ship goods and failure to maintain access to this system would dramatically increase carbon emissions.

Nearly 15 percent of rail volume is agricultural products and the agricultural industry desires to ship more products by rail, but inconsistent rail service has contributed to truck freight capturing most of the growth in agricultural and other freight over the last 40 years. See the charts below showing the growth in truck freight.



Rail has inherent transportation advantages over trucking with respect to shipping larger volumes with less manpower and fuel. However, rail service reliability challenges in 2022 ate away at those advantages and caused other supply chain issues.

For example, feed mills and integrated livestock and poultry operations have experienced instances in which trains have not arrived and they have been unable to make scheduled feed deliveries to producers. At grain export destinations, vessels have waited to be loaded due to delayed train deliveries while grain exporters pay demurrage charges to the shipping company.

Grain processors, such as flour mills, crushing and biofuels facilities, have experienced rail challenges on the inbound and outbound. On inbound, they have been run short on raw agricultural commodities and have slowed or shutdown operations. Outbound, their sidings have become full of loaded railcars and they have been forced to slow or shutdown operations due to having no place to load empty railcars. Where able, less efficient truck freight is used to help offset gaps in rail service.

The impact of unreliable rail service is felt across the NGFA membership, lowering production and increasing the cost of transportation of ethanol, biodiesel, soybean oil, soybean meal, flour, animal feed, meat and other products derived from grain and feed.

The bottom line is that too much of the cost of unreliable and unchallengeable rail service is borne by rail customers, agricultural producers and the general pub-

lic. NGFA appreciates the communication and openness of rail carriers about the services challenges and current rail service is improved from where it had been for most of 2022. However, the rail service pain of 2022 is still fresh in the minds of NGFA members. NGFA strongly urges Congress and the Surface Transportation Board (STB) to take appropriate action to provide clearer rules to incentivize better rail service and prevent a repeat of 2022.

The Solutions:

- The most recent STB reauthorization expired on Sept. 30, 2020. Congress should pass another STB reauthorization with an eye toward fostering competition in the freight rail system.
- The NGFA supports Sen. Tammy Baldwin’s Reliable Rail Service Act from the last Congress that would better define rail carriers’ common carrier obligation.
  - By existing statute, rail customers (shippers and receivers) have a right to receive reasonable service upon reasonable request, but the law/rules are vague and therefore unchallengeable.
  - If the railroads do not provide such service, there should be an easy, quick, and effective challenge process.
  - A better-defined common carrier obligation may help reverse the 40-year trend of trucks capturing most new ag freight demand.
- The NGFA urges STB to conclude its work on Docket No. EP 711 that would establish reciprocal switching rules to enable the creation of rail-to-rail competition at qualifying interchanges.
- The NGFA supports STB’s efforts to require additional data reporting, particularly for first mile/last-mile rail service.
- The NGFA urges STB to expeditiously work on Docket No. EP 768 to incentivize rail carriers to more efficiently use rail customer-owned railcars. Much of the cost of railcar ownership has been transferred onto rail customers, yet they have little control over the railcars.
- The NGFA supports removing constraints to STB’s investigative authority that currently are limited to issues of national or regional significance and prospective application of remedies.
- Lastly, NGFA supports expanding STB’s enforcement ability for when rail carriers do not comply with STB orders.

As an association representing a segment of the agricultural supply chain that relies heavily on efficient, reliable transportation, we believe sensible policy measures are needed to increase trucking capacity, preserve/enhance the competitiveness of inland waterways, and to deter future rail service challenges. Thank you for holding this important hearing on these critical issues.

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**Letter of January 31, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Michael W. Johnson, President and CEO, National Stone, Sand & Gravel Association, Submitted for the Record by Hon. Sam Graves**

JANUARY 31, 2023.

Honorable SAM GRAVES,  
*Chairman,*  
*House Committee on Transportation and Infrastructure, Washington, DC 20515.*  
 Honorable RICK LARSEN,  
*Ranking Member,*  
*House Committee on Transportation and Infrastructure, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES, RANKING MEMBER LARSEN:

On behalf of the 400 members of the National Stone, Sand & Gravel Association (NSSGA), I am writing to share the aggregates industry’s views, as the Committee holds its first hearing of the 118th Congress, entitled: “The State of Transportation Infrastructure and Supply Chain Challenges.”

NSSGA is the voice of our nation’s aggregates industry, which operates over 9,000 operations and employs over 100,000 people in high-paying jobs to source 2.6 billion tons of aggregates each year that are used to sustain our modern way of life and build our nation’s communities and infrastructure. Our industry is the beginning of the building supply chain, as the products we source are the essential components needed to build roads, airports, transit, rail, ports clean water and energy networks.

First, as our country faces economic headwinds and an uncertain future, the historic Infrastructure Investment and Jobs Act (IIJA) is laying the groundwork to keep the aggregates and materials industry moving forward to build more resilient

communities and stronger transportation networks that carry American goods and people. The certainty provided by IIJA, through the five-year reauthorization of our surface transportation programs allows companies in the aggregates industry to better plan and make robust investments in our people, plants and equipment.

We would like to provide the following policy recommendations, as the committee kicks off its critical work in the 118th Congress to ensure transportation and infrastructure policies are best delivering results in every American community.

#### OPPOSE PARTISAN POLICIES THAT WERE NOT INCLUDED IN IIJA

Whether investing in a new road in a rural community or a new transit system in an urban city, infrastructure investment should benefit all Americans—a mantra well-known to members of this committee.

That is why we are concerned with proposed policies that insert new criteria into the planning process, such as suggesting disapproval of new highway capacity projects in Dec. 2021 FHWA Memorandum that encourages limiting investment in new capacity projects, or new selection criteria included in federal grant applications that are discouraging some communities from participating. These policies were considered and rejected by Congress and not carried in IIJA.

Limiting new transportation capacity projects and curtailing flexibility does nothing to ease congestion, reduce air emissions and improve the flow of goods, which helps address inflation. Further, roads are still an important aspect of achieving an electric vehicle future. For example, in California the stated goal is to move away from fossil-fueled passenger vehicles in the next decade. If this occurs, then new road capacity will not add increased emissions, but it will make the movement of goods and people cheaper and quicker. Lack of capacity has many negative impacts including increased inflation. Flexibility from Washington is critical, as states work to modernize our transportation networks, and we should not limit our ability to address increasing vehicular capacity to our systems.

It is critical for the administration to follow the will of Congress of providing maximum flexibility to state and local partners deploying infrastructure. Partisan mandates attached to federal infrastructure opportunities that discourage investment in new capacity projects, create more bureaucratic delays, or provide new workforce hurdles should be rejected.

#### BUY AMERICA BUILD AMERICA AND THE AGGREGATES PRODUCTS EXCLUSION

One of the key policy changes made under the IIJA was the creation of new federal Buy America Buy America (BABA) sourcing requirements, which include the addition of “construction materials” to Buy America preferences for federal infrastructure programs.

The aggregates, cement, concrete, and asphalt paving industry worked with Congress, to craft the new statutory requirements to exclude aggregates, cement, asphalt additives and paving binders as a construction material. Further, products that are made by combining these items, like concrete and asphalt, are also excluded from the new BABA requirements and subsequent Buy America sourcing rules.

Unfortunately, one critical roadblock has been the lack of clear and conscious communication over the new Build America, Buy America regulations, including the exclusion for aggregates-based products. Multiple state departments of transportation, in addition to federal agencies, have started issuing guidance and information requests to begin complying with BABA. Each state and federal agency has issued different, often inconsistent and sometimes conflicting guidance. Many times, the guidance fails to recognize the aggregates materials exclusion leading to confusion across our industries.

Keep in mind that certain geographic areas of the country do not have the geologic deposits that allow local sourcing of stone, sand and gravel to make concrete and asphalt and to be used in construction. These materials must be imported from nearby countries and often it is less costly and produces less air emissions than trucking long distances across U.S. regions.

Likewise, a lack of cement capacity in some states means cement must be imported. The lack of asphalt oil production and refineries, especially on the east coast, requires agencies and contractors to import from Canada to meet demand for basic street paving materials. The aggregates industry strongly supports the goals of Congress and the administration to expeditiously improve our outdated infrastructure. It is imperative that federal and state partners responsible for distributing federal investments follow the BABA law and subsequent Buy America requirements, as written by Congress, and not impose any sourcing requirements or paperwork burdens on concrete, asphalt, cement, cementitious material, aggregates, additives, and binder. This will ensure maximum project delivery and American job creation.

## PERMITTING REFORM IS NEEDED TO BUILD

Last year, the White House Council on Environmental Quality issued a new regulation that complicates the permitting process for large infrastructure projects under the National Environmental Permitting Act (NEPA). This bureaucratic action broadens definitions and adds duplicative federal agency reviews that will do nothing to improve environmental outcomes. What is more frustrating is that these new rules run counter to the bipartisan NEPA reforms that were included in IIJA.

Aggregates suppliers across the country crave certainty, as we work to supply the billions of tons of essential materials needed to improve roads; upgrade bridges; advance transportation systems and ports; and advance our modern energy infrastructure that will be funded by the investments provided by the bipartisan IIJA. This is especially important in the current economic environment, where needless red tape will delay project implementation and drive-up costs of construction materials.

In one example, the fixed cost investments for aggregates reserves, plants and rolling stock to produce this material runs from \$3 to \$4 per ton of material produced, which requires tremendous replacement capital each year from companies. This requires a huge commitment of capital which can be exacerbated by the high inflation we now experience. America uses over 2.6 billion tons of aggregate a year. This means an annual commitment by private companies of up to \$10 billion per year for new reserves, plants, and equipment to keep producing the materials needed to meet the demand.

Instead of proceeding with new NEPA guidance that complicates the procedures, we urge rapid enactment of policies included in IIJA like “one federal decision” that will streamline bureaucratic review and reduce infrastructure permitting timelines from seven to two years.

NEPA is just one part of the permitting problem. Aggregate producers must often wait years for federal agencies such as the Army Corps of Engineers and the U.S. Fish & Wildlife Service, amongst others to issue decisions. Often, the federal regulations conflict with similar state regulations adding complexity and red tape in the permitting process. Our operations need clear rules and accountable federal agencies to produce materials to meet the goals of the IIJA.

## REJECT THE NEW WATERS OF THE UNITED STATES (WOTUS) RULEMAKING UNTIL THE SUPREME COURT RULES IN THE SACKETT VS. EPA CASE.

It is anticipated that the Supreme Court could change how the EPA and Army Corps of Engineers define a Waters of the United States (WOTUS). On Oct. 3, the Supreme Court heard oral arguments examining the Sackett vs. EPA case and questioned the significant nexus analysis.

All the while, EPA and the Army Corps finalized a new rule on Dec. 30, which makes substantive and new changes to the definition of WOTUS, under the guise of withdrawing the 2020 Navigable Waters Protection Rule. In fact, in Feb., the Small Business Administration found that the agencies have improperly certified the proposed rule, determined the proposed rule expands the definition of WOTUS and impacts small businesses requiring a small business regulatory review.

With the flawed rulemaking now final, material producers will be forced to comply with multiple complex changes, resulting in the fifth change in a decade. Because of the uncertainty, aggregates producers are unsure of when and how new operations and expansions can be permitted. With EPA finalizing yet another rule while SCOTUS stands poised to alter the rule’s underpinning only adds to an already time consuming and uncertain permitting process. The current regulatory ambiguity is impacting industry ability to obtain CWA permits to establish new domestic manufacturing facilities and build infrastructure projects that are critical to addressing our supply chain crisis.

Unfortunately, despite hearing from impacted stakeholders, 201 House members and 50 Senators, the agencies still proceeded with a final rule that is likely to conflict with the Supreme Court action. To provide our industry with certainty needed to produce construction materials that supply the projects funded under IIJA, it is critical for the administration to halt this doomed rulemaking process and await the SCOTUS decision before proceeding with a new rulemaking process.

## RAIL SERVICE REFORM IS NEEDED

It is no secret that rail service conditions are failing for the aggregates and industrial sand industry. Deteriorating rail service conditions have a direct impact on our ability to supply millions of tons of aggregates and industrial sand, which are used to improve outdated infrastructure, build resilient communities, and drive America’s energy production.

In detailed comments to the Surface Transportation Board (STB), NSSGA shared how service disruptions and unwarranted price increases are severely impacting our industry. If action is not taken to improve service, the constant delays, and the inability to move product to market will continue to have a direct impact on supplying key infrastructure projects across the country. This will ultimately plague the implementation of the bipartisan IIJA.

NSSGA calls on Congress and the STB to enact meaningful rail reform that levels the playing field between shippers and carriers. One such proposal is the pending rulemaking at STB related to reciprocal switching. If enacted, this would drive greater competition, especially for facilities captive to one carrier.

#### WORKFORCE DEVELOPMENT

A skilled and highly trained inclusive and diverse workforce is paramount to safely operating quarries that produce the critical materials found in infrastructure projects. Unfortunately, many aggregate producers are unable to hire and retain a full workforce in today's labor market.

The aggregates industry takes pride in investing in its employees by providing attractive salaries, competitive benefits, robust training, support and career development. Our industry's average annual salary is over \$75,000, and most employees spend their entire careers in the industry.

NSSGA supports policies and funding from the federal government to train workers, increase the diversity of our workforce and ensure aggregate producers can access the skilled employees needed to continue producing the building blocks of America. We also encourage Congress and the administration to continue its bipartisan support for programs that work with America's veterans, active and reserve service members, and their spouses to find meaningful careers and employment opportunities.

Thank you for providing the opportunity for our members to share their views as you examine the critical issues impacting our transportation network and supply chains.

Do not hesitate to contact NSSGA should we be able to provide any assistance, as the Committee works through this Congress.

Sincerely,

MICHAEL W. JOHNSON,

*President and CEO, National Stone, Sand & Gravel Association.*

CC: Members of the House Committee on Transportation and Infrastructure

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**Letter of February 1, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Sean O'Neill, Senior Vice President of Government Affairs, Portland Cement Association, Submitted for the Record by Hon. Sam Graves**

FEBRUARY 1, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*Transportation and Infrastructure Committee, Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*Transportation and Infrastructure Committee, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

The Portland Cement Association (PCA), which represents the majority of U.S. cement manufacturers, appreciates the opportunity to submit a statement for today's committee hearing entitled "The State of Transportation Infrastructure and Supply Chain Challenges." We welcome the opportunity to share the perspective of our members on the role of cement in building infrastructure and the supply chain challenges cement manufacturers are facing.

Portland cement is a manufactured powder that is the primary ingredient in concrete. Portland cement acts as the bonding agent in concrete, similar to the role of flour in cake mix. As an essential construction material and a basic component of our nation's infrastructure, portland cement is utilized in virtually all construction applications, including highways, bridges, mass transit, airports and runways, offices, dams, and water resource systems and facilities. The continued use portland cement ensures concrete remains one of the nation's most essential and widely used

construction materials. Virtually nothing in the modern world can be constructed without it.

Across the country, there are approximately 100 cement manufacturing plants in 34 states, including five in Missouri and one in Washington. The cement and concrete industry prides itself in employing approximately 600,000 people nationwide.

#### IMPLEMENTATION OF THE INFRASTRUCTURE AND INVESTMENT ACT

The cement industry appreciates the work of the Transportation and Infrastructure Committee and the 117th Congress to pass the Infrastructure Investment and Jobs Act (IIJA) in 2021. After years of deferring investing in our nation's infrastructure, the funding provided by the IIJA will address years of underinvestment. Additionally, this will spur economic growth, create jobs, and improve our nation's global competitiveness.

The cement industry commends the attention the reauthorization of the transportation program places on improving the resilience of transportation investments making much needed investments in our nation's roads, highways, bridges and transit systems, and addressing challenges caused by a changing climate. In each of these, there is a role for cement to advance these objectives. PCA also supports the steps taken by the IIJA to make sensible reforms to the federal permitting and environmental review process. Additionally, PCA supports the reauthorization of several Environmental Protection Agency (EPA) water infrastructure programs, including both the Drinking and Clean Water State Revolving Funds (SRFs) and the Water Infrastructure Finance and Innovation Act (WIFIA). The EPA's drinking and wastewater infrastructure programs provide critical assistance to communities to advance much needed water infrastructure projects. In recognition of the increase of extreme weather events that are increasingly disrupting and damaging water infrastructure in communities across the country, PCA supports the attention the IIJA places in improving the resilience of this critical infrastructure.

We expect the demand for cement to increase as states and municipalities implement the infrastructure projects funded in large part by IIJA. For example, based on PCA's Market Intelligence forecasts, the investments made by the IIJA will result in 46 million metric tons of cement<sup>1</sup>, which is a significant increase in consumption. Not only will these projects use cement to build critical infrastructure, but they will also help improve the efficient and cost-effective movement of cement to market.

#### BUILD AMERICA, BUY AMERICA

The IIJA included the Build America, Buy America Act (BABA) which extends domestic content procurement preferences to certain construction materials for all infrastructure projects funded in part with federal funding. The BABA established an important limitation on the term construction materials. Specifically, the BABA limited the term from including "cement and cementitious materials, aggregates such as stone, sand, or gravel, of aggregate binding additives." This limitation makes clear no construction material domestic content procurement preference from these construction materials is established under the BABA. Additionally, the BABA prohibits the same construction materials from being subject to Buy America as inputs in all manufacturing processes that produce construction materials.

The BABA directs the Office of Management and Budget (OMB) to issue standards that define all manufacturing processes for construction materials for which BABA does apply a domestic content procurement preference. The legislative intent of this provision of the BABA is for the combination of the listed items as concrete from being exempt from the domestic content procurement references included in BABA.

The OMB has issued initial guidance on BABA implementation related to construction materials. However, the OMB has not taken steps to issue the standards related to all manufacturing processes. This has resulted in inconsistencies in the way BABA is being implemented across different federal agencies, and PCA members are receiving questions about whether their product is Buy America compliant even though the legislative intent of exempting cement and cementitious materials and their combination with aggregates to form concrete from the new BABA provisions related to construction materials and manufactured product. PCA would support efforts on the part of the OMB to clarify to agencies that cement and concrete do not have to be BABA compliant.

<sup>1</sup> [https://www.cement.org/docs/default-source/cement-concrete-applications/ed-sullivan's-fall-forecast-2021.pdf?sfvrsn=cbe0fcfb\\_2](https://www.cement.org/docs/default-source/cement-concrete-applications/ed-sullivan's-fall-forecast-2021.pdf?sfvrsn=cbe0fcfb_2)

## SUPPLY CHAINS AND THE EFFICIENT MOVEMENT OF CEMENT

Last year, cement consumption in the United States increased 2.9 percent over 2021 levels, which was also a strong year. Annually, the majority of the cement consumed in the United States is manufactured domestically. To meet market demand, a portion of the cement consumed in the United States is imported. The top five countries where cement is imported from are Turkey, Canada, Mexico, Greece, and Vietnam. As we have noted we expect demand for cement to increase as more infrastructure projects funded by the IIJA.

Over the past couple of years, cement manufacturers have experienced logistics hinderances that have impacted their ability to ship cement to market as well as receive shipments to produce the energy needed to manufacture cement and the chemicals to maintain environmental compliance. In recognition of the regional nature of the cement industry, it is critical to have reliable and cost-effective transportation options.

The average cement shipments range between 250 and 300 miles. Truck transportation is not economically viable beyond 100 to 125 miles. As such, the cement industry relies on railroads to deliver our product to the marketplace beyond the economical range of trucks. Several cement plants also have access to water transportation for domestic shipments. These plants look to barge, rail, and trucks to transport their product. In summary, domestic cement manufacturers have historically relied heavily on rail transportation to move the majority of shipments between cement plants and distribution terminals, and that reliance has only grown in the recent years.

Most bulk cement shipments are from the manufacturing plants to the more than 300 regional distribution terminals, where the cement is then delivered by truck to the distribution network consisting primarily of local contractors and ready mixed concrete producers. It is critically important to PCA members that the railroads provide reliable, efficient, and cost-effective service to meet the widespread and growing demand for our product.

PCA members have almost universally experienced a decline in rail service when Class I railroads moved to precision scheduled railroading (PSR). With challenges already facing the logistics of consistent service, this shift has resulted in a significant increase in missed switches and increased demurrage billings. This has led to increased costs to cement manufacturers not only through increased demurrage but lost sales. One single anecdotal example represents the potential magnitude of this difficult situation. Due to poor rail service to one terminal location, a specific shipper lost between 60,000 to 100,000 tons of annual volume. This amount would be enough to build as many as 3,000 standard-sized homes. Many of our members have seen their rail service further decline over the last two years with staffing cuts and challenges associated with the COVID-19 pandemic. Cement is also exempt from Surface Transportation Board (Board) oversight. We appreciate the steps the Board is taking to not only draw attention poor rail service but also improve rail service, but not all actions taken by the Board help our members in their interactions with the railroads due to the lack of Board oversight.

In conclusion, PCA and our members are committed to working with this committee to ensure that our transportation network and the supply chains that are so critical to our nation's infrastructure are operating in a manner that grows our economy and meets future demands. If you have any questions, please do not hesitate to reach out to Sean O'Neill.

Sincerely,

SEAN O'NEILL,

*Senior Vice President, Government Affairs, Portland Cement Association.*

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**Statement of the Wabtec Corporation, Submitted for the Record by Hon. Sam Graves**

Westinghouse Air Brake Technologies Corporation ("Wabtec") submits the below testimony in response to the House Transportation and Infrastructure Committee's February 1, 2023 hearing titled, "The State of Transportation Infrastructure and Supply Chain Challenges." As a leading global provider of equipment, systems, digital solutions, and value-added services for the freight and transit rail industries, Wabtec is uniquely qualified to comment on the country's transportation and supply chain challenges and opportunities.

## WABTEC CORPORATION

As a global technology leader in transportation, Wabtec designs, manufactures, and services freight rail and marine transportation products, logistics, and digital solutions that move people and goods across the U.S., North America, and the globe. Headquartered in Pittsburgh, PA, Wabtec operates in over 50 countries with 27,000 employees worldwide, including over 10,000 in the U.S. With more than 23,000 locomotives in its global installed base, Wabtec moves more than 20% of the world's freight in over 100 countries.

Today, rail represents the cleanest, most energy efficient, and safest mode of moving freight and people on land. As global demands for growth increase, current trends indicate that freight and passenger rail activity will more than double by 2050, leading to an increased demand for sustainable transportation of people and goods. At Wabtec, we are helping our freight and passenger transit customers reduce their overall carbon footprint through the development of low-emitting locomotives like our Tier 4 diesel-electric locomotives, and battery-electric locomotives, energy management systems like Trip Optimizer, as well as next generation transit products, Green Air and Green Friction.

## WABTEC'S FREIGHT LOCOMOTIVE TECHNOLOGIES

Despite the low carbon footprint rail brings to freight movement, Wabtec is committed to developing technologies to further enhance the safety, efficiency, and sustainability of the U.S. freight rail network. Wabtec has been leading the industry in cleaner, more energy-efficient freight rail solutions. Wabtec's Tier 4 locomotive, designed to meet the U.S. Environmental Protection Agency's most stringent emission standards, was the first-of-its-kind. Today, there are more than 1,000 Tier 4 locomotives in service delivering a 70% reduction in emissions. In 2019, this fleet of Tier 4 locomotives completed more than 100 million miles of revenue service, the equivalent of hauling freight to the surface of Mars.

To further reduce the freight rail industry's carbon footprint, Wabtec developed the world's first 100-percent heavy-haul battery-electric locomotive called the FLXdrive. The FLXdrive was designed at Wabtec's Campus in Erie, a 111-year-old site considered the backbone of innovation for the rail industry. With haulage capabilities comparable to its diesel equivalent, the FLXdrive locomotive is designed to replace a diesel locomotive within a train consist, unlocking new levels of operational flexibility for the freight rail industry.

The FLXdrive 1.0 demonstration ran over 13,000 miles and delivered an average of 11% reduction in fuel consumption across the train. This is the equivalent of 6,200 gallons of diesel fuel saved and approximately 65 metric tons of carbon dioxide ("CO<sub>2</sub>") emissions reduced. At an 8 MWhr battery capacity, we have an opportunity to further reduce fuel consumption and emissions by up to 30%.

Wabtec also has made significant investments in the existing locomotive fleet through its remanufacturing and modernization programs. These programs lead to up to 15 percent improved fuel efficiency, greater than 40 percent increase in reliability, approximately 50 percent increase in haulage ability, and a reduction in maintenance and repair expenses. In addition, these programs support a circular economy by extending the useful life of our products and reducing waste in our operations. In 2021, Wabtec remanufactured its 1000th locomotive, and we continue to expand this capability to customers around the globe.

In addition to modernizing the existing locomotive fleet, Wabtec is researching alternative fuels to reduce the emissions impact of the existing fleet. In 2022, Wabtec partnered with Oak Ridge National Laboratory and Argonne National Laboratory to test and develop a locomotive engine capable of running on both hydrogen and diesel. This project seeks to displace diesel fuel by 50% or more with hydrogen in order to create a lower carbon retrofit option for existing locomotives<sup>1</sup>. Additionally, Wabtec partnered with BNSF Railway and Union Pacific Railroad to test and validate alternative fuel blends to measure the impact on emissions, durability and performance of Wabtec locomotives<sup>2</sup>. Technology adoption across the freight rail industry will be a driver for the modernization of the entire freight and supply chain ecosystem, making it cleaner and more efficient.

<sup>1</sup>National labs, Wabtec partner to develop next-gen locomotive engine. <https://www.freightwaves.com/news/national-labs-wabtec-partner-to-develop-next-gen-locomotive-engine>

<sup>2</sup>Wabtec and BNSF Railway Biofuels Pilot to Advance Sustainability. <https://www.wabteccorp.com/newsroom/press-releases/wabtec-and-bnsf-railway-biofuels-pilot-to-advance-sustainability>; UP, Wabtec, REG Launch Renewable Fuels Testing. <https://www.railwayage.com/mechanical/locomotives/up-wabtec-reg-launch-renewable-fuels-testing/>

## POSITIVE TRAIN CONTROL

Wabtec also leads the way in rail utilization, safety, and logistics optimization technology. In 2008, Congress passed the Rail Safety Improvement Act, which mandated the implementation of Positive Train Control (“PTC”) systems on most of America’s railroads. Since 2008, Wabtec has supplied over 24,000 locomotives with its Interoperable Electronic Train Management System (“I-ETMS”), a safety-critical overlay system that provides means to enforce movement authorities, speed restrictions, work zones and switch positioning to help reduce the potential for train accidents. I-ETMS integrates new technology with existing train control and operating systems to enhance train-operation safety.

With I-ETMS, the crew remains in control of the train, while the system monitors and ensures the crew’s compliance with all operating instructions. The on-board computer, with the aid of an on-board geographic track database and GPS system, constantly calculates warning and braking curves based on all relevant train and track information including speed, location, movement authority, speed restrictions, work zones, and consist restrictions. All information is combined and analyzed in real time to provide a “safety-net” for improved train operations.

Wabtec continues to accelerate innovation with development funding to create new products and capabilities to increase customer productivity, efficiency, capacity, utilization, and safety. Wabtec is working to increase rail utilization through advanced PTC systems by developing new technologies to utilize “moving blocks” instead of the traditional fixed blocks used by most railroads today. Currently, PTC uses “fixed block” technology that uses wayside signaling systems, built into the railroad’s infrastructure, to transmit a train’s location. These fixed locations only allow for one train in a “block” at any given time. “Moving block” would use onboard transponders to transmit a train’s location to other trains behind or ahead. This allows trains to maintain a safe distance between each other and eliminates inefficiencies of the fixed block system. Moving block reduces headways between trains and increases rail capacity, while maintaining stringent safety standards.<sup>3</sup>

## FREIGHT RAIL UTILIZATION

A functioning and resilient supply chain is not possible without a robust freight rail industry. The United States has the most extensive rail network on the planet, and in 2020, railroads accounted for 40% of long-distance freight by volume.<sup>4</sup> Freight rail is the cleanest, safest, and most efficient way to move goods over land.<sup>5</sup> Even with its clear advantages, roughly 85% of America’s primary corridor rail mileage is currently underutilized.<sup>6</sup> The United States must find ways to increase utilization of its freight railways if we want to move goods and materials more efficiently, effectively, and sustainably.

Wabtec is developing next-generation technologies, such as dynamic network planning artificial intelligence, and on-demand logistics planning to optimize heavy haul operations, increase yard capacity and cargo visibility, and grow “first & last” mile operations. Our Movement Planner system optimizes the mainline network by providing real-time rail traffic planning and optimization, enabling freight to move more efficiently using existing rail networks, thereby reducing energy use, emissions, and waste.

Movement Planner is currently being used by two of the most complex railroads in North America, Norfolk Southern and the BNSF along with two Australian natural resources railroads. This technology has resulted in a 15% reduction in dwell time compared to the prior year.

With advancements to current signaling systems, network efficiency solutions, and freight rail utilization technologies, the rail industry could increase the freight rail network capacity by roughly 50% without adding a single piece of track.<sup>7</sup>

## FREIGHT YARDS

America’s freight railroads remain a critical part of our nation’s supply chain with a proven record of navigating disruptions, such as the COVID-19 pandemic to deliver goods reliably and bolster the U.S. economy. In a typical year, U.S. freight rail-

<sup>3</sup> <https://www.aar.org/campaigns/ptc/>

<sup>4</sup> <https://www.aar.org/facts-figures#:-:text=Freight%20railroads%20account%20for%20roughly,transportation%2Drelated%20greenhouse%20gas%20emissions.>

<sup>5</sup> <https://www.aar.org/wp-content/uploads/2020/08/AAR-Safety-Fact-Sheet.pdf>

<sup>6</sup> <https://www.wabteccorp.com/Freight2030-white-paper?inline>

<sup>7</sup> <https://www.wabteccorp.com/Freight2030-white-paper?inline>

roads move 1.7 billion tons across nearly 140,000-miles of privately owned infrastructure that runs through 49 states.

With rail accounting for such a large percentage of freight movements, separating and sorting railcars and building new outbound trains within freight yards are central to freight delivery performance. Yet, today, most yards have minimal real-time asset tracking capabilities, so shippers cannot track their shipments across the supply chain network.

RailConnect Transportation Management System is a Wabtec software solution that enables companies to increase efficiency and productivity, improve revenue recognition, and optimize service levels. To date, more than 600 short line customers are using RailConnect to control and manage yard, inventory, waybills, train movements, switching, demurrage, and even miscellaneous billing.

Building on the benefits of greater supply chain visibility, Wabtec's Yard of the Future initiative looks to modernize rail yard operations and develop advanced solutions to reduce emissions and improve overall logistics efficiency in rail yards. Yard of the Future will use planning tools and remote-control capabilities to improve yard capacity and efficiency. Coupled with increased usage of zero-emission, battery-powered yard equipment, Yard of the Future will accelerate yard throughput, better integrate yard operations, and improve the environmental footprint of railyard operations.

One of the tools being utilized within the Yard of the Future initiative is Wabtec's unique digital solution called the Classification Yard Planner. This platform combines dynamic planning tools, increased visibility, and decision support systems to unlock productivity and network efficiency. It is designed to help railroads make the best decisions around asset use and resource allocation so they can get cars connected and out of the yard faster. Based on initial pilot implementations at a Class I railroad, Wabtec's Classification Yard Planner is estimated to improve car connections by 10%, decrease car dwell time by 5%, and reduce administrative and planning efforts by 44%.

#### PORTS AND MARINE

Over the last two years, the COVID-19 pandemic strained America's ports and supply chains. As demand for goods sharply increased, supply bottlenecks manifested across the globe, including at our nation's ports. At the nation's busiest port, the Port of Los Angeles ("POLA"), hundreds of ships laid at anchor off the Southern California coast waiting to be unloaded. While POLA worked diligently to alleviate these pressures, including moving to 24/7 operation, the supply chain crisis persisted for months.

To keep cargo flowing efficiently and increase throughput at America's ports, Wabtec has developed part of the solution, the Port Optimizer, an unparalleled cloud-based information portal designed to digitize maritime shipping data for cargo owners and supply chain stakeholders through secure, channeled access. Port Optimizer can collect data from dozens of different sources and use machine-learning algorithms to standardize the incoming data into one platform. The platform contains data sourced from direct connects with 9 of the top 10 global shipping lines and all marine terminals within POLA. POLA uses Port Optimizer to enhance supply chain performance through real-time data, which helps relieve bottlenecks at the port. Port Optimizer also contains data from selected third-party providers, including United States Customs and Border Protection, The Marine Exchange of Southern California, GeoStamp, and others.

Port Optimizer's Track and Trace application provides visibility of containers and other port assets to drayage companies and beneficial cargo owners. The Control Tower application provides port-wide historical and future forecasted container volumes for Port Authorities to analyze trends. By enabling these features, the Port of Los Angeles increased its throughput, improved efficiency with digital infrastructure, and created an on-time, accurate, and reliable source of data for port stakeholders to better plan operations.

Wabtec is also an integral partner within the marine industry. As marine fleets connect to ports, Wabtec's breakthrough Tier 4 engine technology has been adapted for marine use to provide one of the cleanest, most efficient movement of goods and people on water. Wabtec's marine diesel engines are used on ships, ferries, dredgers, and other marine applications. These engines are less complex to install, easy to operate, and allows customers to save up to 75 percent of valuable cargo, fuel, and accommodation space due to their smaller size.

At the nation's ports, Wabtec's ShoreCONNECT solution is designed to help create a safer and more efficient supply chain for goods movement by reducing emissions and increasing logistical flexibility. ShoreCONNECT consists of movable

power connectors that power ships with clean electricity as they berth without the need of a diesel generator. At the Port of Keil in Germany, ShoreCONNECT has the potential to reduce 12,000 tons of carbon emissions annually from cruise ships by providing shore power, while also reducing operating costs, emissions, and noise.

#### CONCLUSION

For over 150 years, Wabtec has been at the forefront of freight, rail yards, and ports technology advancement. Wabtec is proud to partner with Class 1 railroads, short lines, ports, and yards operators, and shippers to develop solutions to improve the safety, reliability, efficiency, and sustainability of today's freight and logistics networks. We thank the Committee for holding this important hearing and look forward to working with Congress to accelerate critical investments and partnerships to ensure a resilient and efficient national supply chain and transportation network.

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**Letter of October 3, 2022, to Hon. Pete Buttigieg, Secretary of Transportation, from the Community Transportation Association of America et al., Submitted for the Record by Hon. Rick Larsen**

OCTOBER 3, 2022.

The Honorable PETE BUTTIGIEG,  
*Secretary of Transportation,*  
 1200 New Jersey Ave SE, Washington, DC 20590.

DEAR MR. SECRETARY,

Thank you for your leadership in implementing the historic Bipartisan Infrastructure Law. This investment in our infrastructure comes as a critical time as the nation emerges from the COVID-19 pandemic and navigates ongoing supply chain and inflation issues.

The undersigned organizations, led by the Community Transportation Association of America's (CTAA), write today to bring awareness to a burgeoning crisis in the small bus industry that threatens the ongoing operations of rural, small-city, para-transit and non-emergency medical transportation providers across the nation. Today, the demand for small buses, particularly body-on-chassis vehicles, far outstrips supply with estimates of 20,000 small bus purchases currently backlogged.

We need your assistance in securing more chassis for the small bus marketplace so the trips to vital health care appointments (like dialysis); to congregate meal sites and grocery stores; to work and education; and to other social services that these types of buses typically serve can safely continue. In addition, the current environment creates an opportunity to promote flexibility, competition, and innovation by streamlining the procurement regulations for small buses.

Recent dialogue among transit agencies, state departments of transportation, bus dealers and bus manufacturers highlight the current state of the small bus marketplace:

- A survey of State Departments of Transportation (State DOTs) last month revealed that three quarters of State DOTs are feeling an unprecedented level of concern regarding standard vehicle replacements and maintaining a state of good repair, with more than one-half of agencies having had a small bus purchasing contract or agreement terminated in 2022;
- Bus dealers predict the small bus backlog, nationally, to eclipse 20,000 in 2023, and expect full recovery of the market to take five to seven years;
- The largest small bus manufacturer currently has one of seven manufacturing facilities up-and-running, and can only meet 25 percent of demand; and
- Prices for these vehicles are running 30 percent to 70 percent above pre-pandemic levels.

With the Biden Administration's leadership in enacting the Infrastructure Investment and Jobs Act (IIJA), public transit providers have record levels of federal capital investment. However, the small bus manufacturing backlog and price inflation threaten to stifle the IIJA's impact on transit service delivery in communities across the country. The positive impact of the IIJA's generational infrastructure investment is surely threatened by this situation.

The undersigned transit industry partners are actively working together to collaborate and support each other throughout this challenging time. Working together, we have developed a number of potential solutions for your consideration, including:

- Encourage chassis manufacturers, particularly Ford, to set aside units for vital public transportation and for small buses.

- Streamline current procurement regulations, with an emphasis on flexibility, because of the unprecedented nature of current small bus crisis. Use the vehicle backlog, nationally, to determine the timeframe for these procurement process changes.
- Expand the Federal Transit Administration's (FTA) proposed Buy America general nonavailability waiver for passenger vans (87 Fed. Reg. 43101) to include waiving Buy America requirements for small buses and vans when manufacturers are not able to guarantee delivery within 12 months or less of an order. Use this temporary waiver to incent manufacturers to locate production facilities in the United States.
- Offer clear guidance to FTA grantees on whether, when, and how to amend bus procurements or reprogram funds when vehicles as specified cannot be delivered under the terms of a procurement agreement.

In summary, we strongly encourage the U.S. Department of Transportation to help the public transit industry secure additional chassis for the small bus market. It is critical to our shared goal of ensuring that the Bipartisan Infrastructure Law provides unparalleled opportunities to all Americans. We would surely welcome any opportunity to discuss this critical subject further.

Sincerely,

SCOTT BOGREN, <i>Executive Director, Community Transportation Association of America.</i>	PAUL P. SKOUTELAS, <i>President and CEO, American Public Transportation Association.</i>	JIM TYMON, <i>Executive Director, American Association of State Highway and Transportation Officials.</i>
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VERMONT AGENCY OF TRANSPORTATION, <i>Barre, VT.</i>	ARKANSAS TRANSIT ASSOCIATION, <i>Arkansas.</i>
NEBRASKA ASSOCIATION OF TRANSPORTATION PROVIDERS, <i>Milford, NE.</i>	MERCER COUNTY TRADE, <i>Trenton, NJ.</i>
TENNESSEE PUBLIC TRANSPORTATION ASSOCIATION, <i>Nashville, TN.</i>	OKLAHOMA TRANSIT ASSOCIATION, <i>Oklahoma.</i>
GEORGIA TRANSIT ASSOCIATION, <i>Marietta, GA.</i>	COORDINATED TRANSPORTATION SOLUTIONS, <i>Trumbull, CT.</i>
TRANSPORTATION ASSOCIATION OF MARYLAND, <i>Linthicum, MD.</i>	ALABAMA DOT, <i>Alabama.</i>
PRAIRIE HILLS TRANSIT, <i>Spearfish, SD.</i>	SPECIAL SERVICES TRANSPORTATION AGENCY, <i>Colchester, VT.</i>
TRANSACTION CORPORATE SHUTTLES, INC., <i>Woburn, MA.</i>	TRI-VALLEY TRANSIT, <i>Middlebury, VT.</i>
NEW MEXICO DEPARTMENT OF TRANSPORTATION, <i>Santa Fe, NM.</i>	CLAIBORNE COUNTY HUMAN RESOURCE AGENCY, <i>Port Gibson, MS.</i>
CALL A RIDE SERVICE, INC., <i>Lewistown, PA.</i>	ALASKA MOBILITY COALITION, <i>Anchorage, AL.</i>
UTAH STATE UNIVERSITY AGGIE SHUTTLE, <i>Logan, Utah.</i>	OKLAHOMA DEPARTMENT OF TRANSPORTATION, <i>Oklahoma City, OK.</i>
SOUTHERN GEORGIA REGIONAL COMMISSION, <i>Georgia.</i>	CALIFORNIA ASSOCIATION FOR COORDINATED TRANSPORTATION (CALACT), <i>Sacramento, CA.</i>
STARKVILLE MISSISSIPPI STATE AREA RAPID TRANSIT, <i>Mississippi State, MS.</i>	FAIRMONT-MARION COUNTY TRANSIT AUTHORITY, <i>Fairmont, WV.</i>
ROGUE VALLEY TRANSPORTATION DISTRICT, <i>Medford, OR.</i>	NORTH CAROLINA PUBLIC TRANSIT ASSOCIATION, <i>North Carolina.</i>
OHIO DEPARTMENT OF TRANSPORTATION, <i>Ohio.</i>	KENTUCKY PUBLIC TRANSIT ASSOCIATION, <i>Kentucky.</i>
WASHINGTON STATE TRANSIT ASSOCIATION, <i>Washington.</i>	ILLINOIS PUBLIC TRANSIT ASSOCIATION, <i>Illinois.</i>
RIVER BEND TRANSIT, <i>Davenport, IA.</i>	MINNESOTA DEPARTMENT OF TRANSPORTATION, <i>St. Paul, Minnesota.</i>

TPRG,  
*Cocoa Beach, FL.*

COMMUNITY TRANSPORTATION  
ASSOCIATION OF THE NORTHWEST,  
*Oregon and Washington.*

COMMUNITY TRANSPORTATION  
ASSOCIATION OF VIRGINIA,  
*Radford, Virginia.*

MISSOURI PUBLIC TRANSIT ASSOCIATION,  
*Missouri.*

FLORIDA PUBLIC TRANSPORTATION  
ASSOCIATION,  
*Tallahassee, FL.*

THE BUS COALITION,  
*Nationwide.*

MICHIGAN PUBLIC TRANSIT ASSOCIATION,  
*Lansing, Michigan.*

MICHIGAN TRANSPORTATION  
CONNECTION, INC.,  
*East Lansing.*

UPPER CUMBERLAND HUMAN RESOURCE  
AGENCY,  
*Cookeville, Tennessee.*

CALIFORNIA DEPARTMENT OF  
TRANSPORTATION,  
*California.*

RIVER CITIES PUBLIC TRANSIT,  
*Pierre, South Dakota.*

MICHIGAN DEPARTMENT OF  
TRANSPORTATION,  
*Michigan.*

SPORTRAN,  
*Shreveport, LA.*

MARICOPA ASSOCIATION OF  
GOVERNMENTS,  
*Phoenix, Arizona.*

NJ TRANSIT CORP.,  
*Newark, NJ.*

MDOT MTA,  
*Maryland.*

SIOUXLAND REGIONAL TRANSIT SYSTEM,  
*Sioux City, Iowa.*

SOUTH DAKOTA DEPARTMENT OF  
TRANSPORTATION,  
*Pierre, SD.*

IONIA DIAL-A-RIDE,  
*Ionia, Michigan.*

VIRGINIA DEPARTMENT OF RAIL AND  
PUBLIC TRANSPORTATION,  
*Richmond, Virginia.*

MIDAS COUNCIL OF GOVERNMENTS,  
*Fort Dodge, IA.*

VERMONT CLEAN CITIES COALITION,  
*Burlington, VT.*

DIVISION OF MULTIMODAL  
TRANSPORTATION FACILITIES, DIVISION  
OF PUBLIC TRANSIT, WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION,  
*Charleston, WV.*

SOUTH WEST TRANSIT ASSOCIATION,  
*Fort Worth, Texas.*

TEXAS TRANSIT ASSOCIATION—TTA,  
*Austin, Texas.*

MS DEPARTMENT OF TRANSPORTATION,  
*Mississippi.*

SOUTHEAST VERMONT TRANSIT,  
*Vermont.*

GIFFORD HEALTH CARE,  
*Randolph, Vermont.*

COMMUNITY TRANSIT OF WATERTOWN/  
SISSETON, INC.,  
*Watertown, SD.*

TWO RIVERS-OTTAUQUECHEE REGIONAL  
COMMISSION,  
*Woodstock, Vermont.*

SENIOR SOLUTIONS COUNCIL ON AGING,  
*Southeastern, VT.*

AGE WELL, INC.,  
*Vermont.*

UPPER VALLEY SERVICES,  
*Bradford, VT.*

SENIOR SOLUTIONS,  
*Springfield, VT.*

MISSISSIPPI PUBLIC TRANSIT  
ASSOCIATION,  
*Natchez, Mississippi.*

NATCHEZ TRANSIT REGIONAL CENTER,  
*Natchez, Mississippi.*

NATCHEZ SENIOR CITIZEN'S  
MULTIPURPOSE CENTER,  
*Natchez, Mississippi.*

**Letter of February 1, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from the American Chemistry Council, Submitted for the Record by Hon. Dusty Johnson**

FEBRUARY 1, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*House Committee on Transportation and Infrastructure, United States House of Representatives, Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*House Committee on Transportation and Infrastructure, United States House of Representatives, Washington, DC 20515.*

Re: Hearing on “*The State of Transportation Infrastructure and Supply Chain Challenges*”

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

The American Chemistry Council (ACC) appreciates the Committee holding this hearing to examine transportation and supply chain challenges and to learn how carriers will address them. Just like the carriers testifying at the hearing, shippers continue to face unprecedented transportation problems that adversely impact their operations, which in turn impacts the broader economy by fueling inflation and the shortage of products and materials.

ACC represents more than 150 of America's leading chemical companies. Our members manufacture a wide variety of chemicals, polymers, and related products that help make our lives and our world healthier, safer, more sustainable, and more productive. The business of chemistry is also essential to building and construction, electronics, farming, food production, vaccines, medicine, automobiles, aerospace and much more.

The chemical sector is one of the largest shippers by volume across all modes of transportation—for marine, rail and truck. Our transportation needs are growing as the result of the resurgence of U.S. chemical manufacturing. ACC's Economics and Statistics department found that investments in chemical manufacturing in the U.S. will drive tremendous new transportation demand with more than 830 thousand additional chemical shipments per year by 2032:

- 337K additional marine container shipments
- 122K additional rail shipments
- 370K additional truck shipments

Supply chain and freight transportation disruptions have caused considerable problems for chemical producers. In fact, a survey of ACC members found that 97 percent of companies reported that they had been forced to modify or curtail operations because of transportation. And our members tell us that significant supply chain and freight transportation challenges persist.

ACC recognizes and applauds the important steps that Congress and the Administration have taken to help address transportation challenges, including the passage of the bipartisan Ocean Shipping Reform Act (OSRA). We also thank Congress for the swift, bi-partisan action to avert a shutdown of the nation's rail network. However, more needs to be done to improve the efficiency, capacity, and resiliency of America's freight transportation system.

#### *Trucking Policy*

Chemical manufacturers are concerned that constraints in the trucking industry could hinder future growth and investments. We urge Congress to pass the Safer Highways and Increased Performance for Interstate Trucking (SHIP IT) Act to help the trucking industry deliver for businesses and consumers. The bill contains key reforms that will help recruit and retain drivers, while maximizing the efficiency of the country's trucking network and without creating new regulations.

#### *Freight Rail Reform*

Freight rail is critical to ACC's members and chemical manufacturing. Our industry is one of the largest freight rail customers, shipping over two million carloads annually.

ACC appreciates the testimony from Ian Jefferies of the Association of American Railroads acknowledging that rail service has not been what customers deserve and stating that railroads are "fully committed to restoring service to a consistently high level." However, rail service failures cannot be blamed solely on the pandemic, and rail customers deserve more than promises that railroads will do better in the future.

Railroads cut tens of thousands of jobs before the pandemic started. In addition, railroads have dramatically changed their operations and the level of service they provide to shippers as they implemented Precision Scheduled Railroading (PSR). These changes have harmed many rail customers through additional costs and service failures.

Given the massive changes within the freight rail industry and their ramifications for the economy, the Surface Transportation Board (STB) cannot afford to stand still. The STB should adopt new approaches that are better equipped to address the current environment. Competition and market forces provide the best means to balance the needs of railroads and their customers. Policies that promote greater competition within the rail industry help make it an attractive and viable option to move freight, and competition will incentivize railroads to attract and retain the skilled workforce needed to meet this demand.

We urge Congress to provide the Surface Transportation Board with the resources it needs to finalize long overdue regulatory reforms that will provide greater access to competitive and reliable freight rail service.

Specifically, ACC supports the STB's proposal to change its restrictive rules on reciprocal switching. This key reform would finally provide greater access to competitive rail service as envisioned by the Staggers Rail Act more than 40 years ago. Reciprocal switching will help provide competitive transportation rates, open up more service options, and ease congested routes.

In addition, we support the Board's efforts to collect and report more meaningful data on service performance to rail customers known as "first mile/last mile service." Collecting this critical data would provide the STB and rail customers with better insight into some of the most disruptive service problems so they can be effectively addressed.

Finally, we urge Congress and the STB to further define and clarify the service performance levels that railroads are required to meet as part of their Common Carrier Obligation. This will provide greater accountability and help prevent future service failures.

ACC would like to work with the Committee to deliver solutions that will help improve the transportation network and strengthen the nation's supply chains.

Sincerely,

AMERICAN CHEMISTRY COUNCIL.

## APPENDIX

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### QUESTION FROM HON. ELEANOR HOLMES NORTON TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

*Question 1.* One of the best ways to improve roadway safety for truckers is to better train drivers and prepare them for the profession. A well-trained driver will be better able to handle the challenging situations they will inevitably face, and by making sure they are prepared for the career, they are more likely to stay in the industry, gain experience, and drive more safely.

The Entry Level Driver Training standards, or ELDT rule, went into effect in February 2022 after a delay. Before this ELDT rule there were no national training standards for truckers getting their Commercial Driver's License.

Congress has now seen requests from some carriers and segments of the industry to be exempted from the requirements, while others call for the ELDT standards to be repealed entirely. At a time when the number of crashes involving large trucks remains unacceptably high, such actions would further jeopardize roadway safety.

Mr. Spear, does the American Trucking Associations oppose exemptions to the ELDT rule?

*ANSWER.* Thank you for the question. ATA is generally opposed to additional legislative ELDT exemptions. As I note on page 10 of my written testimony, "ATA has long supported the Entry Level Driver Training (ELDT) rule," and "ATA is discouraged by recent legislative efforts that attempted to exempt certain individuals from this standardized training curriculum."

### QUESTIONS FROM HON. JOHN JAMES TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAIL- ROADS

*Question 1.* Michigan is home to 3,600 miles of rail corridors. In my district, the #1 manufacturing district in America, rail helps auto plants move new automobiles across the country. I understand that a strong rail network is critical for a strong manufacturing sector, my district, the state of Michigan and our nation. Can you touch on what Congress could—or should—be doing to further build upon the country's rail network?

*ANSWER.* Safety is always first, but focusing on legislative and regulatory changes that are carefully constructed, supported by evidence, and performance-based will ensure the policymakers avoid unintended negative consequences and help the rail network, and our economy as a whole, remain strong.

First, policymakers should focus on performance-based, rather than prescriptive regulations, to avoid inadvertently locking-in existing technologies and processes and blocking innovations that could improve safety and performance. Railroads have long invested in innovative technological solutions to meet safety goals, but achieving maximum benefit from that innovation, and thereby encouraging railroads to keep investing in those technologies, requires railroads and policymakers to work together.

The importance of allowing innovation to improve safety is exemplified by hot bearing detectors, which monitor changes in the temperature of wheel bearings. Currently, railroads use heat-sensing wayside detectors at specific intervals along the track to identify when a bearing is overheating, but through innovation, railroads have developed onboard detectors that continually monitor wheel bearings in real time. Regulations to lock in or mandate wayside detectors when a safer, more-effective onboard detector is being developed and deployed could actually impede safety improvements and not achieve railroads' and policymakers' shared safety

goals. In addition, basing policies on science-based data and demonstrated safety improvements will ensure that regulations achieve the highest safety standards.

Second, continuing to implement and oversee the Infrastructure Investment and Jobs Act (IIJA) and improve permitting will ensure that critical investments in the nation's infrastructure continue. Many of the intermodal projects of national and regional significance funded through IIJA could not possibly be carried out by state or local governments alone. Moreover, new programs like the Grade Crossing Elimination Program, are critical to improve safety for all communities where railroads operate. Efforts to streamline the grant application process and oversee program implementation will ensure that IIJA resources have the largest possible impact on our national infrastructure. In addition, efforts to improve the permitting process should speed project delivery without short-changing important environmental reviews. For example, Congress should focus on efforts to set timelines and clarify the scope of state reviews under the Clean Water Act and to extend One Federal Decision to cover National Environmental Policy Act (NEPA) reviews done by all federal agencies. These reforms will ensure that the significant investments made by Congress through the IIJA will be as impactful as possible while maintaining high environmental standards.

Third, policymakers should restore the Highway Trust Fund (HTF) to a user-pays system, which historically funded investments in public road and bridge infrastructure. Revenues into the HTF have failed to keep pace with investment needs, requiring general fund transfers to cover the shortfall. As a result, policymakers have been forced to transfer a total of \$275 billion of general taxpayer funds to repair roads and bridges since 2008, including \$118 billion in IIJA, which will only cover the HTF shortfall through 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 an unfair competitive disadvantage. This is especially true for the railroad industry, as freight railroads invest well over \$20 billion of their own revenue every year to build, maintain, and pay for the 140,000-mile rail network. The lack of adequate revenue raised for the HTF is partly the result of trucks weighing 80,000 pounds, which do not come close to paying for the damage they cause to our public highway system. Policymakers should also reject calls to increase federal truck size and weight limits. Trucks' multi-billion-dollar annual underpayment would become even greater if truck length and weight limits were increased.

Finally, the rates and service offerings of freight railroads are subject to the regulatory jurisdiction of the Surface Transportation Board (STB) and maintaining the balanced regulatory framework created by The Staggers Act is essential to supporting a strong rail network. A return to unbalanced regulation would result in a sharp decline in the efficiency and quality of rail service, leaving the entire supply chain worse off.

*Question 2.* Mr. Jefferies, can you elaborate on new technologies that have been implemented in the rail industry?—as it relates to safety, communications, new locomotives.

*ANSWER.* Railroads have long applied technological solutions to improve safety and enhance performance. Many of these technologies were developed and/or tested at MxV Rail (formerly Transportation Technology Center, Inc.), the world's premier railroad research and testing facility in Pueblo, CO. Railroads often develop and deploy these technologies across the industry without any government mandate or beyond government mandates to continually improve safety. A few examples of safety-enhancing technology include:

- *AskRail.* Technology has made it easier than ever to share information and resources in the rare event of a rail accident. AskRail allows emergency responders to input the identification number of a particular rail car and immediately determine the commodity contained in that car, its hazard class, emergency response information associated with the commodity, and other information. Emergency responders in the East Palestine, OH, derailment properly used AskRail to quickly obtain information on the railcars involved in that accident. The rail industry recently announced an initiative to double the number of first responders who have access to the tool by the end of 2023.
- *Hot bearing detectors (HBDs).* Railroads monitor wheel bearing temperatures using heat-sensing detectors placed at intervals along railroad tracks. These detectors notify the locomotive engineer if it is necessary to stop a train due to an overheated bearing. Following the derailment in East Palestine, OH, Class I railroads recently announced plans to install approximately 1,000 new HBDs so that HBD spacing on most key routes will be reduced to no more than 15 miles, down from the current average of 20 miles. Railroads also recently

agreed to a new industry standard that calls for stopping trains and inspecting bearings whenever the temperature reading from an HBD exceeds 170 degrees above ambient temperature. In addition, railroads are continuing to invest in on-board detector technology, which provides continuous, real-time monitoring as the train moves rather than waiting to pass a wayside detector.

- *Locomotive sensors.* Today's locomotives are outfitted with hundreds of sensors that generate thousands of performance readings per minute to maximize efficiency. These sensors allow analysts to identify equipment needing maintenance. In addition, advanced locomotive fuel management systems provide engineers with real-time recommendations on how to maximize fuel efficiency and sense when an engine is getting too hot or when oil is contaminated.
- *Positive train control (PTC).* PTC has been fully deployed on rail lines that carry passengers and high volumes of hazardous materials. PTC monitors train location, speed, track signals, and many other inputs to prevent certain train-to-train collisions and derailments caused by human error. Beyond safety, PTC systems and their foundational components have the potential to drive further efficiencies and innovation.
- *Machine vision.* Machine vision technology uses cameras that collect thousands of images of trains per second as they pass by. A series of algorithms then analyze the images to identify anomalies, allowing railroads to resolve issues much more quickly and effectively than they could with manual inspections alone.
- *Wheel impact load detectors.* These detectors identify wheels that are heavily pounding on the tracks and pull them from service if they are reaching the end of their useful life.
- *Training simulators.* Railroads use a combination of field training, on-the-job training, and distance learning to create their professional workforce, with some railroads owning dedicated technical training centers. Simulators range from locomotive and power-operated switches to grade crossing simulators and virtual welding. For example, engineers can virtually learn train handling procedures on different parts of track.
- *Ultrasound.* As a train travels over track segments, energy is transmitted through the track and into the ground below. This energy can be measured as a series of sound waves, collectively called an acoustic signature that differs depending on the health of the track. Going farther down, ground-penetrating radar looks inside track foundation to identify water damage or deterioration.
- *Drones and sonar.* Railroads use drones to inspect bridges and to take video and pictures of hard-to-reach areas that could not easily be manually inspected. Railroads also frequently use drones after weather events to look for washouts, downed trees, misaligned track, and other conditions without risking the health and safety of employees. Sonar sends sound waves that bounce off the bridge piers and the ground surface below the water. Then, based on the nature of the echo, railroads determine whether there are any concerns with the stability of the bridge piers.

Some of these new technologies work together under the “automated track inspection” (ATI) rubric to improve track inspection and allow railroads to gather massive amounts of data, analyze it for patterns and warning signs, and preventatively maintain their track. In some instances, ATI testing of track has resulted in more than a 90 percent reduction in the rate of unprotected main track defects found. Unfortunately, the FRA is preventing railroads from making the best use of this safety-enhancing technology.

*Question 3.* Given the recent East Palestine toxic fire situation, Michigan's waters and Great Lakes are top of mind. Can you speak to the safety and environmental protocols you have worked to put in place near waterways, especially in the Great Lakes region to prevent a similar situation from occurring in Michigan.

*ANSWER.* Safety is the foundation of everything the railroads do. Families deserve to feel safe within their communities, and railroads are steadfastly committed to taking solutions-oriented steps to prevent accidents from occurring. While 99.9% of all hazardous materials shipments reach their destination without incident, the less than .1% have the potential to dramatically impact communities, as highlighted by recent events in East Palestine, OH.

On Wednesday, March, 8, AAR announced initial steps the industry was taking to reach zero accidents:

- Installing 1,000 new wayside detectors with an average spacing of 15 miles along most routes.
- Setting a new action threshold to stop trains and inspect bearings when temperatures exceed 170 degrees above ambient temperature.

- Expanding the use of trending analysis to reveal bearing problems before a temperature threshold is reached.
- Joining FRA's voluntary Close Call Reporting System (C3RS) to supplement Class I's own programs for confidential reporting of safety issues.
- Training 20,000 first responders in local communities across the country on accident prevention, response, and mitigation, and training 2,000 first responders at the Security & Emergency Response Training Center (SERTC) in Colorado.
- Expanding the use of AskRail by first responders through targeted outreach to emergency communication centers and state fire associations.
- Accelerating the work of the Tank Car Committee to investigate the use of heat-resistant gaskets for tanks transporting flammable liquid.

These are just the first steps that railroads will take to improve the safety of the entire network and restore confidence that nothing is more important to the railroads than the safety of their employees, their customers, and the communities in which they operate.

Data from the Federal Railroad Administration confirm that rail safety has improved substantially over the years. Much of this improvement has been achieved through significant and consistent investments back into the rail networks. From 1980 to 2022, freight railroads spent more than \$780 billion of their own funds—more than 40 cents out of every revenue dollar—on capital expenditures and maintenance expenses related to locomotives, freight cars, tracks, bridges, tunnels and other infrastructure and equipment to improve safety. Railroads will continue to make these investments going forward.

Railroads want all their shipments to travel safely, and the vast majority do, but they have consistently taken concrete steps dedicated specifically to making hazmat transportation safer and hazmat accident response and mitigation more effective.

For example, when an accident involving hazmat occurs, railroads follow strict protocols to protect nearby communities and waterways. They work closely with the Environmental Protection Agency (EPA), the National Transportation Safety Board (NTSB), relevant state and local authorities, and outside experts to contain the situation as quickly as possible; protect the health and safety of nearby residents and the environment; and remediate impacts. A variety of laws and their accompanying regulations give the EPA and other agencies a comprehensive framework to ensure that railroad hazmat spills are properly addressed.

Railroads provide hazmat training to thousands of emergency responders each year to ensure local agencies have the information and training to prevent, respond to, and mitigate any rail accident. Railroads also provide thorough information to emergency response agencies on hazardous materials moving through their communities and equip train dispatchers and crews with information about hazmat on individual trains as well as contact lists for local emergency responders along a train's route. Railroads also provide hazmat awareness training to all employees who are involved in hazmat transportation. Rail employees responsible for emergency hazmat response efforts receive far more in-depth training. Railroads also have hazmat response contractors and environmental consultants on call 24/7.

As seen in East Palestine, railroads provide services like lodging, food, and environmental testing to those displaced by rail hazmat accidents and establish assistance centers and claims teams to assess and meet the needs of displaced community members. Railroads also reimburse local, state, and federal authorities for the costs associated with their response and cleanup efforts and will stay until the job is done.

**QUESTION FROM HON. ELEANOR HOLMES NORTON TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS**

*Question 1.* It is important to ensure that residential communities are not negatively impacted by train noise and vibrations. Last Congress, I introduced the Train Noise and Vibrations Reduction Act of 2022 (H.R. 8338), which would direct the Department of Transportation to submit a report containing recommendations to reduce train noise and vibrations near homes.

What additional steps does the industry plan to take to reduce or mitigate train noise and vibrations near homes?

*ANSWER.* Railroads know that noise and vibrations can raise concerns in impacted communities. Railroads try to be good neighbors at all times, seek to minimize negative community impacts in all aspects of their operations, and maintain open communication with the communities in which they operate. However, as communities

near rail lines and rail facilities expand, and as rail traffic patterns change, new challenges related to noise and other community impacts arise. Railroads are committed to working cooperatively with local officials and other stakeholders to address these challenges as effectively as possible.

**QUESTIONS FROM HON. DONALD M. PAYNE, JR., TO IAN JEFFERIES,  
PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF  
AMERICAN RAILROADS**

*Question 1.* Your testimony states that you've increased employment by nearly 10 percent and Mr. Regan's testimony states that the railroads cut employment by nearly one-third. The Surface Transportation Board Chair recently said that between April and September of 2022, the four big railroads added 420 total train and engine employees—an increase of less than 1 percent. While the railroads hired many more, almost the same number quit the railroad out of frustration.

So, are you increasing the number of employees or are there less employees? Taking attrition into consideration, will you be increasing the number of railroad workers?

*ANSWER.* The Surface Transportation Board collects a variety of data from Class I freight railroads, including the number of all rail employees in six job classification groups: executive, officials and staff assistants, professional and administrative, maintenance of way and structures, maintenance of equipment and stores, transportation other than train and engine, and transportation train and engine. These filings are prepared in accordance with STB regulations to ensure consistency among railroads, and data are based on actual payroll data. They are intended to include every person in the service of the reporting carrier and subject to its continuing authority. As such, they are net of attrition. The rail figures capture employment by job classification rather than union membership or benefit eligibility to ensure that those in unique circumstances are accurately counted.

Based on the most recent of this STB data, Class I train and engine (T&E) employment in January 2023 was 50,313, up 9.9 percent (4,546 employees) over January 2022. Total Class I employment in January 2023 was 119,245, up 6.7 percent (7,491 employees) over January 2022.

The number of rail employees tends to ebb and flow based on current and expected future rail traffic levels and other factors. Railroads are confident they will continue successfully recruiting the next generation of railroad workers to meet the nation's rail freight demand. Our employees deserve our thanks and appreciation for their sustained commitment to moving America's freight 24 hours a day, 365 days a year and doing so at the highest level of safety. Without them, our industry would not exist.

*Question 2.* Some have expressed concern that the Class I railroads' debt and associated annual interest costs have been increasing. Is this true and are you concerned that these increasing debt costs could impact the railroads' long-term viability?

*ANSWER.* An in-depth examination of the financial condition of individual railroads (including the characteristics of their debt, associated interest costs, and related financial indicators) is beyond the scope of this response. However, for the Class I freight rail industry, debt currently does not appear to be a major concern.

The table below shows inflation-adjusted annual interest charges, debt, operating revenue, and net income for Class I railroads combined from 2001 to 2021 (the most recent year for which data are available). Debt has been somewhat higher in recent years compared to the past, but annual interest charges have been comparable to what they've been for a decade and materially lower than historical levels.

Interest charges as a percentage of debt in 2021 was 3.9 percent, the lowest it's been in the period studied. Interest charges as a percentage of operating revenue in 2021 was 1.5 percent, equal to its annual average from 2010–2021. Interest charges as a percentage of net income in 2021 was just 5.0 percent, easily the lowest for any year in the period studied.

## U.S. Class I Freight Railroad Interest and Debt

Year	(millions of 2021 dollars)				Interest Charges as % of		
	Interest Charges	Debt	Operating Revenue	Net Income	Debt	Operating Revenue	Net Income
2001	\$1,709	\$22,311	\$51,526	\$4,083	7.7%	3.3%	41.9%
2002	\$1,672	\$20,842	\$51,838	\$4,698	8.0%	3.2%	35.6%
2003	\$1,479	\$20,873	\$52,722	\$3,866	7.1%	2.8%	38.2%
2004	\$1,545	\$22,386	\$56,779	\$4,018	6.9%	2.7%	38.5%
2005	\$1,643	\$21,508	\$62,662	\$6,680	7.6%	2.6%	24.6%
2006	\$1,516	\$21,483	\$68,739	\$8,544	7.1%	2.2%	17.7%
2007	\$1,509	\$21,527	\$70,072	\$8,723	7.0%	2.2%	17.3%
2008	\$1,393	\$21,254	\$77,118	\$10,202	6.6%	1.8%	13.7%
2009	\$1,442	\$22,122	\$59,869	\$8,036	6.5%	2.4%	17.9%
2010	\$1,538	\$21,173	\$71,913	\$11,254	7.3%	2.1%	13.7%
2011	\$1,358	\$19,496	\$81,336	\$13,178	7.0%	1.7%	10.3%
2012	\$1,175	\$20,205	\$83,092	\$14,130	5.8%	1.4%	8.3%
2013	\$1,140	\$20,987	\$85,152	\$15,654	5.4%	1.3%	7.3%
2014	\$939	\$20,914	\$89,078	\$16,521	4.5%	1.1%	5.7%
2015	\$1,056	\$23,468	\$81,438	\$16,434	4.5%	1.3%	6.4%
2016	\$1,121	\$23,720	\$73,943	\$14,845	4.7%	1.5%	7.6%
2017	\$1,140	\$23,117	\$77,238	\$15,882	4.9%	1.5%	7.2%
2018	\$1,185	\$30,026	\$82,084	\$22,138	3.9%	1.4%	5.4%
2019	\$1,329	\$31,170	\$78,651	\$21,799	4.3%	1.7%	6.1%
2020	\$1,214	\$29,729	\$69,016	\$19,070	4.1%	1.8%	6.4%
2021	\$1,124	\$28,786	\$74,331	\$22,492	3.9%	1.5%	5.0%

Interest charges include interest on funded and unfunded debt, plus contingent interest. Debt includes funded unmatured, equipment obligations, capitalized leases, accounts payable to affiliates, and long-term debt due within one year. Figures are for Class I railroads. Source: AAR compilation from railroad R-1 reports to STB.

**Question 3.** According to the Bureau of Transportation Statistics, freight volumes are going up but freight railroad volumes are declining as a percentage of overall freight. Do the Class I railroads have plans to increase their market share?

**ANSWER.** Freight railroads are invested in continuing to grow, help their customers prosper, and make our economy flourish. Today's U.S. freight transportation market is intensely competitive. Railroads are consistently working to increase productivity, keep customer rates low, invest in their networks, and improve service for their customers. Furthering the industry's competitiveness takes many forms, including:

- *Keeping a focus on safety.* The past decade has been the safest in rail history, and railroads continue to work diligently, in cooperation with policymakers, their employees, suppliers, and customers, to identify new technologies, operational enhancements, trainings, and other ways to further improve their safety record.
- *Recognizing that capacity is key.* Railroads have invested more than \$780 billion on capital expenditures and maintenance on their networks since 1980 and well over \$20 billion annually in recent years. These extensive investments will 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.
- *Focusing on customer service.* Railroads know their customers face intensely competitive global markets that increasingly demand faster, more reliable, and more cost-effective service. In response, railroads are continually launching new customer service initiatives and working together with rail suppliers, trucking companies, and other businesses to improve their service offerings.
- *Enhancing sustainability.* Freight rail is well ahead of other modes of transportation when it comes to limiting greenhouse gas emissions, increasing fuel efficiency, and reducing its carbon footprint. Today's railroads continue to leverage technology and modernize their operations to meet tomorrow's challenges, including improvements that increase efficiency and benefit the environment.
- *Advocating for sound public policy.* The rail industry has identified several key policies that are essential for maintaining and enhancing the safe, reliable service they provide to their customers, including maintaining the existing balanced regulatory structure covering rail rates and service; replacing the outdated regulatory framework for the development and incorporation of emerging technologies with one that fosters innovation while continuing to protect the public; maintaining regulatory modal equity; ameliorating other modal inequities re-

lated to infrastructure financing; and undertaking more rail-related public-private partnerships to help unlock key public benefits.

*Question 4.* After the severe service problems of 2022, most of the railroads publicly stated plans to hire additional people but lately there have been reports that the railroads are scaling back plans to increase workforce. What are the freight railroads' plans to hire additional people in 2023? Will the overall number of employees increase, taking attrition into account?

*ANSWER.* Individual railroads differ in terms of their hiring needs and intentions. It is clear, though, that a shortage of workers has, in some cases, hampered railroads' ability to provide the level of service they expect and that their customers deserve. Railroads are committed to continuing to recruit and retain the next generation of railroad workers to meet the nation's freight rail demand.

It is also important to note that railroads are not immune to economic forces. As railroads strive to meet the transportation needs of our nation in the years ahead, they will continue to invest, innovate, and evolve. They will also continue to review employment policies to build more resilience into the system to better ride economic ups and downs. Railroad employees deserve thanks and appreciation for their sustained commitment to moving America's freight 24/365 and doing so at the highest level of safety. Without them, the railroad industry would not exist or be able to meet the demands of the nation's economy.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR., TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

*Question 1.* Today, products are reaching American shores on time more often. However, companies are having trouble moving goods due to limited freight rail capacity. We just witnessed a showdown between rail workers and their employers at the beginning of December. It is safe to say we still have a lot of work to do in ensuring workers are adequately taken care of. Mid-career employees in the railroad industry have walked away from formerly good jobs and secure retirement due to deteriorating work conditions.

*Question 1.a.* Do you believe that a lack of workers is one of the key factors in the supply chain issue we see before us today?

*ANSWER.* Railroads play a major role in extremely complex global supply chains, working in coordination with steamship lines, truckers, ports, drayage providers, and owners of chassis, shipping containers, and warehouses, as well as manufacturers, wholesalers, and retailers of goods. To ensure freight is delivered safely, efficiently, and when expected, every stakeholder must do their part to maintain a consistent flow of freight and avoid bottlenecks. The vast majority of the time, railroads and other supply chain participants do just that.

In addition, railroad employees tend to stay in railroad jobs far longer than other industries. In 2022, the average tenure at a railroad ranged from 19 to 13 years depending on the carrier. By comparison, the average tenure in most other industries is just 3.7 years, and the average tenure in transportation and warehousing industry alone is under four years. The idea that railroaders are leaving the industry en masse mid-career is simply not true.

Over the past two years, railroads, along with virtually every other industry, have found that attracting and retaining enough employees to meet their needs has been a major challenge. The pandemic turned labor markets upside down, and railroads were not immune. When demand for rail service collapsed, railroads temporarily furloughed workers, a common method of managing changes in demand in the past. However, as demand surged faster than predicted fewer furloughed workers than anticipated chose to return to the industry for a variety of reasons. We now know that furlough policies must be carefully reviewed to build more resiliency into the system to better ride economic ups and downs.

To this day, competition for workers remains fierce. Even as interest rates continue to rise, labor participation is high and hiring remains resilient. In February 2023, the national unemployment rate was 3.6 percent, just above the historic lows seen in January 2023. In many key railroad states, the unemployment rate is even lower. The extremely tight labor market means railroads' single-biggest service-related challenge is finding and keeping employees. The good news is railroads are continuing to hire and train new employees and seeing our employment numbers grow. Railroads are working extremely hard to fill available openings through hiring bonuses, refer-a-friend payments, and other incentives for current employees like

vacation buybacks and incentive payments to move to high-demand regions of the network

Railroads are making substantial progress. The number of “train and engine” employees on Class I railroads—the men and women in the locomotive cabs operating trains—was the highest in January 2023 since March 2020. Individual railroads have hundreds of people in their training pipelines and are confident that workforce issues will become increasingly less troublesome in the months ahead. Moving forward from service-related concerns will depend in part on the industry appropriately staffing railroads with a well-trained and motivated workforce.

*Question 1.b.* Seeing that railroads slashed roughly 30% of the workforce prior to Covid, it’s clear that this lack of personnel is one of the key reasons why we are where we are today. Is there a plan in place that would revive the workforce and effectively improve working conditions for workers? How quickly can we expect to see results?

*ANSWER.* The industry and its employees take great pride in the work that they do to move the nation’s freight and support the U.S. economy. Rail jobs are, and always have been, good jobs. The historic agreements reached in the last bargaining round will make railroad jobs even more competitive. These agreements contain a 24 percent wage increase, the largest compensation increase seen in the industry in approximately 50 years. They also maintain the railroads’ platinum-level healthcare plans and provide additional paid time off for all represented rail workers. Separately, agreements with maintenance-of-way employees settle longstanding union concerns regarding travel expenses—their stated top priority from the onset of the round. Equally important are provisions in the agreement to create a more predictable work cadence for T&E employees. In fact, by the BLET’s estimation, these provisions could result in up to 90 additional scheduled days off per year.

The agreements also established a process and timeline for the railroads to work directly with the operating craft unions to make additional work rules changes this year that will enhance predictability and quality of life for those employees who currently have the least predictable schedules. Those negotiations are actively underway at the local level. To date, each of the Class I railroads has reached agreements for paid sick leave with several of their individual unions. The Class I railroads have committed to seeing these negotiations through and look forward to working with the operating craft unions to finish the job.

**QUESTION FROM HON. HENRY C. “HANK” JOHNSON, JR., TO JEFF FIRTH, VICE PRESIDENT, HAMILTON CONSTRUCTION COMPANY, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA**

*Question 1.* We have seen extreme weather events—including wildfires, hurricanes, and severe flooding and storms—that have exacerbated pandemic-related challenges and the functioning of the supply chain. In Georgia heat waves hit relentlessly; the city of Macon reached 105 degrees in June of 2022, which is the highest temperature ever observed that early in the year.

As a leader of a major construction company, how has climate change aggravated the current supply chain in relation to how your company operates, and how have you seen it affect other companies in your sector?

*ANSWER.* There are a lot of factors and events—whether it is a cargo ship stuck in the Suez Canal, increasing fuel prices due to world events, or extreme weather events like you mention—that can cause unexpected supply chain disruptions and lead to material price volatility.

For example, the extreme freeze that hit Texas in mid-February of 2021 damaged or completely shut down all of the plants that supply the raw materials for all construction plastics. In addition, the freeze burst thousands of polyvinyl chloride (PVC) water pipes, thereby adding to demand.

As a result of the supply chain disruptions, like the one in Texas, many infrastructure projects across the country have either been delayed or face the risk of significant delay or a reduction in scope. State DOTs have reported higher than expected bids on projects and as a result have scaled back on the number of projects which is why we have not been seeing an increase in projects as was expected.

AGC believes that a coordinated, national strategy is necessary to build a more resilient future for the nation. That is why at AGC, we have undertaken several initiatives identified by various member-led task forces to identify the immediate and direct impacts of government climate policy on construction markets and other opportunities for construction firms.

The task forces shared their findings and identified ways to partner with the government on this important issue in the future including preparations for electric vehicles, efficiency/traffic flow retrofits, and addition of climate resilience work as part of projects under consideration.

We believe that we need to rebuild the nation's transportation system to be resilient to extreme weather events—however, in doing so, we must ensure that well-intentioned policies do not unnecessarily challenge our meeting that objective. At the end of the day, if we want a greener future, we have to build it.

QUESTION FROM HON. JOHN JAMES TO ROGER GUENTHER,  
EXECUTIVE DIRECTOR, PORT HOUSTON

*Question 1.* Mr. Guenther, I commend you for what you do. Our ports are so important and touch every facet of our way of life. Post COVID, what vulnerabilities remain in our supply chain and what strategy should our nation take to address these issues?

*ANSWER.* A response was not received at the time of publication.

QUESTIONS FROM HON. ERIC A. “RICK” CRAWFORD TO GREG REGAN,  
PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

*Question 1.* Mr. Regan: During the hearing, you said, “*The trucking industry has complained about so-called workforce shortages, but the truth is they have slashed wages and benefits and made working conditions so bad that workers who would otherwise be interested in driving are simply looking elsewhere.*”

*Question 1.a.* Please provide the data supporting your position that the trucking industry has “slashed wages”

*ANSWER.* A response was not received at the time of publication.

*Question 1.b.* Please provide the data that the trucking industry has done the same for benefits

*ANSWER.* A response was not received at the time of publication.

*Question 1.c.* Please provide the data supporting your assertion that “*workers who would otherwise be interested in driving are simply looking elsewhere*”

*ANSWER.* A response was not received at the time of publication.

*Question 2.* Truck drivers make good salaries, with truckload drivers earning a median amount of \$69,687 per year plus benefits, according to the American Trucking Associations industry survey for 2021.<sup>1</sup> This is an 18 percent increase from 2019.<sup>2</sup>

*Question 2.a.* Do you disagree with these data?

*ANSWER.* A response was not received at the time of publication.

*Question 2.b.* Additionally, recent data from the Bureau of Labor Statistics on weekly earnings in the long-haul trucking sector show that average earnings are almost \$1,200 per week or over \$62,000 when annualized.<sup>3</sup> The trend line from January 2020 shows significant increases. How do you square these data with your assertion that the trucking industry has slashed wages?

*ANSWER.* A response was not received at the time of publication.

QUESTIONS FROM HON. HENRY C. “HANK” JOHNSON, JR., TO GREG  
REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT,  
AFL–CIO

*Question 1.* We hear my friends on the other side of the aisle say they are committed to remedying the supply chain crisis. However, upon President Biden's inauguration, we saw Republicans on the Senate side hold up key nominations to the

<sup>1</sup>2022 ATA Driver Compensation Study Executive Summary, June 30, 2022. Available online at: [https://ata.msgfocus.com/files/amf\\_highroad\\_solution/project\\_2358/ATA\\_2022\\_Driver\\_Compensation\\_Study\\_-\\_Press\\_Executive\\_Summary.pdf](https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_2022_Driver_Compensation_Study_-_Press_Executive_Summary.pdf) (accessed February 7, 2023).

<sup>2</sup>*Id.*

<sup>3</sup>*Employment, Hours, and Earnings from the Current Employment Statistics survey (National). Average weekly earnings of production and nonsupervisory employees, general freight trucking, long-distance tl, seasonally adjusted*, U.S. Department of Labor, Bureau of Labor Statistics, September 2022.

President's administration. Nominations that, if not for partisan games, could have been helping with the supply chain issues.

*Question 1.a.* What effect would you say that holds on DOT nominees had and continue to have on the supply chain?

*ANSWER.* Partisan obstruction of DOT nominees isn't just political gamesmanship—it has crippled our ability to fix the broken supply chain. While railroads, trucking firms, and ports struggled with backlogs, delays, and worker shortages, Republicans in Congress stalled leadership confirmations for an average of 121 days—twice the historical norm. This wasn't an accident; it was a deliberate effort to undermine the administration's ability to enforce accountability and implement solutions.

- *Leadership Vacuums Meant Delayed Action:* Without confirmed DOT leaders, federal agencies couldn't move swiftly to cut red tape, distribute funds, and hold bad actors accountable.
- *Corporate Profiteering Thrived in Chaos:* Railroads and shipping companies used this dysfunction as cover to hike fees, shortchange workers, and push reckless cost-cutting policies like Precision Scheduled Railroading (PSR).

*Question 1.b.* In your testimony, you stated “Many of the supply chain challenges are due to harmful employer practices driven not to increase efficiency or deliver better service but purely out of greed.” Can you speak further into these practices?

*ANSWER.* America's rail system is a case study in what happens when Wall Street greed is allowed to run unchecked. Class I railroads have gutted their workforce, slashed maintenance time, and squeezed workers all in the name of shareholder profits. They cut 41% of their mechanical workforce since 2015, stretched trains to 2–3 miles long, and forced inspectors to rush safety checks down to just one minute per railcar.

- *Safety Is an Afterthought to Profits:* These reckless cost-cutting measures led directly to the East Palestine disaster—a preventable catastrophe caused by deferred maintenance and impossible workloads.
- *Rail Workers Are Speaking Out, But CEOs Aren't Listening:* Trained carmen are being replaced by underqualified workers, and inspectors who flag unsafe conditions are pressured to stay silent or face retaliation.
- *PSR Is a Scam, Not Efficiency:* PSR was sold as a way to “streamline” operations, but in reality, it's a Wall Street scheme that gutted the workforce, overburdened remaining employees, and led to more breakdowns, delays, and derailments.

*Question 1.c.* We see a lack of minorities, including women and people of color in the commercial trucking industry. Could these harmful employer practices you speak of be what's keeping so many minorities out? How can working conditions be strengthened to improve the workforce moving forward?

*ANSWER.* The trucking industry doesn't have a driver shortage—it has a shortage of good jobs. Instead of offering decent wages, predictable schedules, and basic benefits, major carriers rely on a churn-and-burn model that exploits workers and repels women and people of color.

- *Systemic Discrimination in Pay & Treatment:* Black and Latino drivers are routinely pushed into lower-paying jobs, like port drayage, while white drivers dominate the highest-earning long-haul routes.
- *The Solution Is Simple-Treat Drivers Like the Essential Workers They Are:* We don't need gimmicks. We need policies that guarantee fair pay, real benefits, and enforceable labor protections.

#### QUESTIONS FROM HON. DONALD M. PAYNE, JR., TO GREG REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

*Question 1.* After years of cutting their workforce, the Class I railroads say they plan to hire additional frontline workers. At the same time, some Class I railroads have reduced the duration of conductor training, including one Class I railroad that, according to FRA data, had three conductors with less than a year of service (newly trained conductors) suffer amputations in separate occurrences in 2021. Do your members feel they are being sufficiently trained? Do you think this will have a safety impact?

*ANSWER.* Recent deaths and serious injuries prove that railroads are cutting corners on training to save money. New conductors are thrown into the field with almost no real instruction, and some are even being “trained” by workers who themselves have less than a year of experience. This is dangerous, reckless, and entirely avoidable.

- *Three Preventable Amputations in 2021*: These weren't accidents—they were the direct result of railroads pushing inexperienced workers into high-risk roles without proper training.
- *FRA's 2023 Safety Bulletin Is a Wake-Up Call*: The FRA explicitly warned railroads in August 2023 that rushed, low-quality training programs are endangering lives—but so far, rail CEOs have done nothing to change course.

*Question 2.* On February 3, 2023, a Norfolk Southern train measuring 9,309 feet, and 17,977 tons derailed in East Palestine, Ohio. The train, carrying vinyl chloride and other hazardous materials, derailed 50 cars resulting in fire and smoke that persisted for days, evacuation of nearby communities in Ohio and Pennsylvania, and air and water quality monitoring. To prevent catastrophic failure and rupture, Norfolk Southern manually released product from several cars carrying vinyl chloride on February 6.

National Transportation Safety Board Member Graham stated at a press conference that investigators obtained two videos that preliminarily show indications of mechanical issues on one of the rail car axles. He also stated that the train's three-person operating crew received an alarm from a wayside defect detector indicating a mechanical issue shortly before derailment, followed by initiation of an emergency brake application.

TTD's affiliate unions have told this committee that the Class I railroads have cut their mechanical workforces sharply, reduced the amount of time mechanics inspect cars, pressured workers not to remove cars from service for repairs, and replaced qualified inspectors with workers without specialized training. Are you concerned that such actions may have contributed to an accident such as the February 3 derailment in East Palestine, Ohio?

*ANSWER.* This disaster wasn't an anomaly—it was the inevitable outcome of railroads prioritizing Wall Street over public safety. Class I railroads have cut 28% of staff (2011–2021) while stretching train lengths to three miles or more. Mechanical workforce cuts left 1,000 non-compliant locomotives at BNSF alone, and untrained contractors were used instead of skilled inspectors. Railroad executives knew the risks, but they gambled with public safety anyway.

- *They Cut Safety First, and the Public Paid the Price*: Railroads eliminated crucial inspection jobs, forcing remaining workers to rush through safety checks—or risk being fired.
- *FRA & DOT Have the Evidence—Now Congress Must Act*: Investigations confirm that railroad executives systematically delayed repairs, ignored maintenance warnings, and pressured inspectors to cut corners.

*Question 3.* According to the Surface Transportation Board, during the last two and a half years, the Class Is have returned nearly \$60 billion to shareholders in stock buybacks and dividends. That is more than 12 times what they saved in payroll by cutting 13,000 employees over the same time period. How would having additional employees help the railroads address supply chain demands?

*ANSWER.* Class I railroads funneled \$60 billion to shareholders in just two years while cutting 13,000 workers. Let's be clear—this money could have gone toward safety improvements, better wages, and infrastructure upgrades. Instead, it was pocketed by executives and hedge funds.

- *Stock Buybacks Instead of Brake Upgrades*: Instead of investing in safer braking technology or fixing aging infrastructure, railroads prioritized inflating their stock prices.
- *CEO Pay Skyrocketed While Rail Workers Were Laid Off*: Between 2015 and 2022, railroad CEO compensation rose by 150%, while frontline workers' pay remained stagnant.

*Question 4.* Do Federal Railroad Administration regulations governing track inspection prohibit the simultaneous use of autonomous track inspection technology and visual track inspections?

*ANSWER.* Rail CEOs want autonomous inspection technology to replace human inspectors—not to improve safety, but to cut jobs and maximize profits. The FRA allows automated track inspections, but it still requires qualified human inspectors to verify and act on the data. Yet, railroads are lobbying to weaken even this basic requirement.

- *Loopholes Are Already Being Exploited*: Some Class I railroads are seeking waivers to reduce the frequency of human inspections, despite clear evidence that automation alone is not sufficient.
- *Deregulation Here Is a Death Sentence*: Cutting human oversight means more derailments, more deaths, and more public disasters like East Palestine. Congress must act before it's too late.

## KEY RECOMMENDATIONS

- Ban Precision Scheduled Railroading (PSR) metrics that force safety compromises.
- Mandate minimum staffing levels for mechanical and training roles.
- Expand whistleblower protections so workers can report safety violations without retaliation.
- Cap train lengths at safe, manageable limits—before the next East Palestine happens.
- Mandate real-time transparency on rail safety data—because right now, railroads are hiding the truth.

The bottom line is simple: Wall Street shouldn't run our railroads. We need real safety reforms now.

