

# OVERSIGHT OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT: MODAL PERSPECTIVES

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(118-39)

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
HIGHWAYS AND TRANSIT  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

DECEMBER 13, 2023

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## CONTENTS

	Page
Summary of Subject Matter .....	vii
<b>STATEMENTS OF MEMBERS OF THE COMMITTEE</b>	
Hon. Eric A. “Rick” Crawford, a Representative in Congress from the State of Arkansas, and Chairman, Subcommittee on Highways and Transit, opening statement .....	4
Prepared statement .....	6
Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia, and Ranking Member, Subcommittee on Highways and Transit, opening statement .....	7
Prepared statement .....	8
Hon. Rick Larsen, a Representative in Congress from the State of Washington, and Ranking Member, Committee on Transportation and Infrastructure, opening statement .....	9
Prepared statement .....	11
<b>WITNESSES</b>	
Hon. Carlos Monje, Jr., Under Secretary of Transportation for Policy, Office of the Secretary of Transportation, U.S. Department of Transportation, oral statement .....	13
Prepared statement .....	15
Hon. Shailen Bhatt, Administrator, Federal Highway Administration, U.S. Department of Transportation, oral statement .....	16
Prepared statement .....	18
Hon. Nuria I. Fernandez, Administrator, Federal Transit Administration, U.S. Department of Transportation, oral statement .....	19
Prepared statement .....	21
Hon. Robin Hutcheson, Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, oral statement .....	22
Prepared statement .....	23
Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, oral statement .....	25
Prepared statement .....	26
<b>SUBMISSIONS FOR THE RECORD</b>	
Submissions for the Record by Hon. Eric A. “Rick” Crawford:	
Letter of October 13, 2022, to Stephanie Pollack, Deputy Administrator, Federal Highway Administration, Docket Management Facility, U.S. Department of Transportation, from U.S. Senator Shelley Moore Capito et al. ....	1
Press Release of July 7, 2022, from U.S. Senator Kevin Cramer .....	4
Memo Issued by the Federal Motor Carrier Safety Administration Regarding Intellistop Pulsating Brake Lamps Exemption .....	29
Letter of December 13, 2023, to Hon. Eric A. “Rick” Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Kristen Swearingen, Vice President, Legislative and Political Affairs, Associated Builders and Contractors ...	91
Letter of December 8, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, and Hon. Eric A. “Rick” Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Jim Ward, President, Truckload Carriers Association .....	93

	Page
Letter of December 12, 2023, to Hon. Eric A. “Rick” Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Catherine Chase, President, Advocates for Highway and Auto Safety, Submitted for the Record by Hon. Eleanor Holmes Norton .....	94
Article entitled, “Why Are So Many American Pedestrians Dying at Night?” by Emily Badger, Ben Blatt, and Josh Katz, New York Times, December 11, 2023, Submitted for the Record by Hon. Jake Auchincloss .....	96

## APPENDIX

Questions to Hon. Carlos Monje, Jr., Under Secretary of Transportation for Policy, Office of the Secretary of Transportation, U.S. Department of Transportation, from:	
Hon. Eric A. “Rick” Crawford .....	101
Hon. Chris Pappas .....	102
Hon. Robert Menendez .....	102
Hon. Colin Z. Allred .....	104
Questions to Hon. Shailen Bhatt, Administrator, Federal Highway Administration, U.S. Department of Transportation, from:	
Hon. Eric A. “Rick” Crawford .....	104
Hon. Jefferson Van Drew .....	107
Hon. Chris Pappas .....	107
Hon. Jake Auchincloss .....	108
Questions to Hon. Nuria I. Fernandez, Administrator, Federal Transit Administration, U.S. Department of Transportation, from:	
Hon. Eric A. “Rick” Crawford .....	110
Hon. Marilyn Strickland .....	112
Hon. Patrick Ryan .....	112
Questions to Hon. Robin Hutcheson, Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, from:	
Hon. Eric A. “Rick” Crawford .....	113
Hon. Colin Z. Allred .....	117
Questions to Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, from:	
Hon. Robert Menendez .....	117
Hon. Colin Z. Allred .....	118
Hon. Emilia Strong Sykes .....	119
Hon. Jake Auchincloss .....	119
Hon. Mark DeSaulnier .....	120



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DECEMBER 8, 2023

**SUMMARY OF SUBJECT MATTER**

TO: Members, Subcommittee on Highways and Transit  
FROM: Staff, Subcommittee on Highways and Transit  
RE: Subcommittee Hearing on “*Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives*”

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I. PURPOSE

The Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure will meet on December 13, 2023, at 10:00 am ET in 2167 of the Rayburn House Office Building to receive testimony at a hearing entitled, “*Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives*.” The hearing will provide an opportunity for Members to discuss all aspects of the modal administrations of the United States Department of Transportation (DOT or Department) within the Subcommittee’s jurisdiction. The Subcommittee will receive testimony from representatives from the Office of the Secretary of Transportation (OST), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Motor Carrier Safety Administration (FMCSA), and the National Highway Traffic Safety Administration (NHTSA).

II. BACKGROUND

On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117–58) into law, representing the largest Federal investment in decades in the United States’ infrastructure.<sup>1</sup> This legislation authorized and appropriated a combined \$1.2 trillion for infrastructure programs over the five-year period from fiscal year (FY) 2022 to FY 2026, to sustain and modernize the Nation’s infrastructure, including roads, bridges, transit, railroads, and airports, as well as energy and broadband.<sup>2</sup>

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<sup>1</sup> IIJA, Pub. L. No. 117–58, 135 Stat. 429 [hereinafter IIJA].

<sup>2</sup> DOT, FHWA, *Bipartisan Infrastructure Law*, (last updated Nov. 22, 2023), available at <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/> [hereinafter FHWA, *Infrastructure Law*].

### III. MODES UNDER THE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT'S JURISDICTION

The Subcommittee on Highways and Transit authorizes programs carried out by five of DOT's 11 modal administrations and offices (modes or modal administrations).<sup>3</sup> They are:

- OST;
- FHWA;
- FTA;
- FMCSA; and
- NHTSA.<sup>4</sup>

These modal administrations are responsible for implementing 89 programs and 142 subprograms under IIJA.<sup>5</sup> Taken together, IIJA provided approximately \$530 billion for these modes, an increase of 80 percent compared to funding authorized under the Fixing America Surface Transportation (FAST) Act (P.L. 114–94).<sup>6</sup>

The funding provided by IIJA flows to funding recipients through grant programs authorized by the legislation and includes both formula and competitive grants.<sup>7</sup> A comprehensive list of these programs across modal agencies and total funding available for each program can be found on DOT's website.<sup>8</sup> Formula program funding is apportioned to recipients each fiscal year. State Departments of Transportation and other recipients generally have four fiscal years in which to obligate Federal-aid highway and NHTSA formula funds.<sup>9</sup> Obligation timelines vary by transit formula program, but in most cases, agencies have several fiscal years to obligate funding.<sup>10</sup> Likewise, FMCSA formula funds generally remain available for obligation by recipients for between two and four fiscal years.<sup>11</sup>

IIJA included a five-fold increase in the amount of competitive grant funding that Secretary of Transportation will award.<sup>12</sup> For competitive grant programs, DOT first issues a Notice of Funding Opportunity (NOFO) which sets forth eligibilities under each grant program, factors for applicant evaluation, the period of time during which interested parties can apply, and other relevant information.<sup>13</sup> DOT posts NOFOs and applicants generally apply through the Federal [www.grants.gov](https://www.grants.gov) website.<sup>14</sup>

#### OST

OST coordinates the development of National transportation policy and the rule-making process for DOT. It is responsible for program and policy development and oversight within the DOT.<sup>15</sup> Before IIJA was enacted, OST managed three programs, including the Local and Regional Project Assistance Grants (RAISE) competitive grant program.<sup>16</sup> IIJA significantly increased the number of programs and amount of funding under OST's purview. It now manages 11 programs, most of which are competitive grant programs, including National Infrastructure Project Assistance (Mega), Safe Streets for All, Multistate Freight Corridor Planning Grants, and the National Culvert Removal, Replacement, and Restoration. IIJA also created

<sup>3</sup>Jurisdiction and Activities, 118th Cong., Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure, (Jan. 2023) (on file with Comm.) [hereinafter *Jurisdiction and Activities*]; DOT, *U.S. Dep't Administrations*, (last updated Aug. 23, 2023), available at <https://www.transportation.gov/administrations>.

<sup>4</sup>DOT, *U.S. Dep't Administrations*, (last updated Aug. 23, 2023), available at <https://www.transportation.gov/administrations>.

<sup>5</sup>DOT, *Bipartisan Infrastructure Law Dashboard*, (last updated Dec. 28, 2021), available at <https://www.transportation.gov/mission/budget/bipartisan-infrastructure-law-dashboard> [hereinafter *Dashboard*].

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>*Id.*

<sup>9</sup>DOT, FHWA, *Funding Federal-Aid Highways*, (Jan. 2017), available at [https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/FFAH\\_2017.pdf](https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/FFAH_2017.pdf).

<sup>10</sup>Notice of FTA Transit Program Changes, 87 Fed. Reg. 25362 (Apr. 28, 2022), available at <https://www.federalregister.gov/documents/2022/04/28/2022-09143/notice-of-fta-transit-program-changes-authorized-funding-levels-and-implementation-of-the>.

<sup>11</sup>49 C.F.R. § 350 (2023).

<sup>12</sup>Jeff Davis, *Status Check: The First Year of IIJA Competitive Grant Funding*, ENO CENTER FOR TRANSP., (Sept. 6, 2022), available at <https://www.enotrans.org/article/status-check-the-first-year-of-ijja-competitive-grant-funding/>.

<sup>13</sup>DOT, *Key Notices of Funding Opportunity*, (last updated Dec. 6, 2023), available at <https://www.transportation.gov/bipartisan-infrastructure-law/key-notices-funding-opportunity>.

<sup>14</sup>GRANTS, *United States Government*, available at [www.grants.gov](https://www.grants.gov).

<sup>15</sup>DOT, *Office of the Secretary*, available at <https://www.transportation.gov/tags/office-secretary>.

<sup>16</sup>*Dashboard*, *supra* note 5.



a new office within OST, the Office of Multimodal Freight Infrastructure and Policy.<sup>17</sup>

IIJA authorized and appropriated \$43 billion over five years for programs administered by the OST.<sup>18</sup> As of December 6, 2023, OST has announced approximately \$6.7 billion in grants for various described above programs.<sup>19</sup>

#### *FHWA*

FHWA's mission is to deliver a world-class highway system.<sup>20</sup> IIJA included \$365.5 billion for highway programs administered by the FHWA.<sup>21</sup> The Act increased funding by 62 percent compared to the five-year average funding authorized in the FAST Act.<sup>22</sup> IIJA created more than a dozen new programs overseen by FHWA, including programs to support electric vehicles, bridges, rural infrastructure, and active transportation, as well as programs to address climate change and reduce carbon emissions.<sup>23</sup> It also broadened funding eligibility under several programs to include local governments and metropolitan planning organizations (MPOs).<sup>24</sup>

FHWA has distributed approximately \$180 billion in IIJA highway program funding to states and local governments and other project sponsors.<sup>25</sup> Analysis of FHWA data by the American Road & Transportation Builders Association (ARTBA) indicates that States have committed formula dollars to support some 60,000 projects across the country, through September 30, 2023.<sup>26</sup> However, some stakeholders have raised concerns with the slow pace with which IIJA funding goes out to bid once it has been apportioned by DOT to States and other project sponsors. An outlook survey published in January 2023 of its member companies by the Associated General Contractors of America (AGC) found that just five percent of companies responded they have worked on IIJA-funded projects in the first year of the law's enactment, while six percent responded they had successfully bid on projects for which work had yet to begin.<sup>27</sup>

#### *FTA*

FTA provides financial and technical assistance to state, local, and regional public agencies in both urban and rural areas to create and enhance public transportation.<sup>28</sup> The agency pursues this goal through funding, technical assistance, research and safety programs in conjunction with state, local and tribal community partners.<sup>29</sup> IIJA authorized and appropriated \$108.2 billion for transit programs administered by FTA.<sup>30</sup> The law significantly increased funding or developed new parameters for State of Good Repair grants, Low or No Emission grants and the Capital Improvement Grant (CIG) program. IIJA also created four new FTA-administered competitive grant programs: the Rail Vehicle Replacement Program, the Electric or Low-Emitting Ferry Pilot Program, Ferry Service for Rural Communities, and the All Stations Accessibility Program.<sup>31</sup>

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Email from Staff, OST, DOT, to H. Comm. on Transp. and Infrastructure Staff (Dec. 6, 2023, 1:20 p.m.) (on file with Comm.).

<sup>20</sup> DOT, FHWA, *About FHWA*, (last updated: Jul. 21, 2023), available at <https://highways.dot.gov/about/about-fhwa>.

<sup>21</sup> FHWA, *Infrastructure Law*, *supra* note 2.

<sup>22</sup> H. Comm. on Transp. and Infrastructure calculation based on IIJA.

<sup>23</sup> FHWA, *Infrastructure Law*, *supra* note 2.

<sup>24</sup> *Id.*

<sup>25</sup> Email from Staff, FHWA, DOT, to H. Comm. on Transp. and Infrastructure Staff (Dec. 4, 2023, 2:45p.m.) (on file with Comm.).

<sup>26</sup> ARTBA, *Highway Dashboard, Tracking Infrastructure Investment & Jobs Act Highway and Bridge Resources*, (last accessed Sept. 13, 2023), available at <https://www.artba.org/economics/highway-dashboard-ijja/>.

<sup>27</sup> AGC, SAGE, *HIGH HOPES FOR PUBLIC FUNDING AMID WORKFORCE AND SUPPLY CHAIN CHALLENGES: THE 2023 CONSTRUCTION HIRING AND BUSINESS OUTLOOK (2023)*, available at [https://www.agc.org/sites/default/files/users/user22633/2023\\_Construction\\_Hiring\\_and\\_Business\\_Outlook\\_Report\\_Final.pdf](https://www.agc.org/sites/default/files/users/user22633/2023_Construction_Hiring_and_Business_Outlook_Report_Final.pdf).

<sup>28</sup> DOT, FTA, *About FTA*, available at <https://www.transit.dot.gov/about-fta>.

<sup>29</sup> 49 U.S.C. § 5301.

<sup>30</sup> DOT, FTA, *Bipartisan Infrastructure Law*, available at <https://www.transit.dot.gov/BIL>.

<sup>31</sup> DOT, FTA, *Bipartisan Infrastructure Law Implementation Presentation*, (Updated Jan. 7, 2022), available at <https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-01/FTA-BIL-Implementation-Webinar-Presentation-01-07-2022.pdf>.

FTA funding increased by 77 percent compared to the five-year average funding authorized in the FAST Act.<sup>32</sup> Additionally, FTA has made available approximately \$40 billion in IIJA transit funding to states, tribes, and territories.<sup>33</sup>

#### FMCSA

FMCSA's primary mission is to reduce commercial motor vehicle-related crashes, injuries, and fatalities.<sup>34</sup> IIJA authorized and appropriated \$5.1 billion for motor carrier safety programs administered by the FMCSA.<sup>35</sup> This represents a 59 percent funding increase for FMCSA programs compared to the five-year average funding authorized in the FAST Act.<sup>36</sup> Since IIJA's enactment, FMCSA has distributed \$1.2 billion in IIJA grant awards to states and territories.<sup>37</sup>

#### NHTSA

NHTSA's mission is to save lives, prevent injuries, and reduce economic costs due to traffic crashes on United States roadways through education, research, and by promulgating and enforcing traffic safety standards.<sup>38</sup> Jurisdiction of NHTSA is shared between the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce. The Subcommittee on Highways and Transit has jurisdiction over highway safety programs, which are administered primarily by NHTSA and funded through the Highway Trust Fund (HTF).<sup>39</sup>

IIJA authorized and appropriated \$8.5 billion for safety programs administered by NHTSA.<sup>40</sup> This funding level represents an 80 percent funding increase for NHTSA programs compared to the five-year average funding authorized in the FAST Act.<sup>41</sup> NHTSA has distributed \$1.6 billion in IIJA grant awards to states.<sup>42</sup>

### IV. IIJA IMPLEMENTATION

Although the modes and DOT have made progress announcing and distributing funding, some programs have not been implemented or took time to finalize. For example, the Department has not yet fully implement provisions related to Vehicle Miles Traveled (VMT), including establishing the alternative funding board that is a precursor to pursuing a National VMT pilot program.<sup>43</sup> Following inquiries from House Committee on Transportation and Infrastructure Chairman Sam Graves and Senate Committee on Environment and Public Works Chairman Tom Carper, DOT committed to filing the charter and publishing a notice in the Federal Register for the Advisory Board by the end of September, which it did, finally initiating progress on this requirement.<sup>44</sup>

Further, the Administration released initial implementation guidance related to the Build America, Buy America Act (BABAA) on April 18, 2022, and on February 9, 2023, the Office of Management and Budget (OMB) issued proposed guidance.<sup>45</sup> In the interim, FHWA issued Questions and Answers related to BABAA on February 1, 2023, and on February 7, 2023, FTA held a webinar on the applicability

<sup>32</sup>H. Comm. on Transp. and Infrastructure calculation based on IIJA.

<sup>33</sup>Email from Staff, FTA, DOT, to H. Comm. on Transp. and Infrastructure Staff (Dec. 5, 2023, 5:03 p.m.) (on file with Comm.).

<sup>34</sup>DOT, FMCSA, *Our Mission* (last updated Dec. 13, 2013), available at <https://www.fmcsa.dot.gov/mission>.

<sup>35</sup>DOT, FMCSA, *Bipartisan Infrastructure Law: Impacts for FMCSA Grant Programs*, (last updated Jan. 6, 2022), available at <https://www.fmcsa.dot.gov/Bipartisan-Infrastructure-Law-Grants>.

<sup>36</sup>Comm. on Transp. and Infrastructure calculation based on IIJA.

<sup>37</sup>Email from Staff, FMCSA, DOT, to H. Comm. on Transp. and Infrastructure Staff (Sept. 13, 2023, 10:08 p.m.) (on file with Comm.) [hereinafter—*IIJA Financial Summary as of Aug. 27, 2023*].

<sup>38</sup>*Jurisdiction and Activities*, *supra* note 3.

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

<sup>40</sup>DOT, NHTSA, *Bipartisan Infrastructure Law*, available at <https://www.nhtsa.gov/bipartisan-infrastructure-law>.

<sup>41</sup>H. Comm. on Transp. and Infrastructure calculation based on IIJA.

<sup>42</sup>Email from Staff, NHTSA, DOT, to H. Comm. on Transp. and Infrastructure Staff (Dec. 5, 2023, 1:34 p.m.) (on file with Comm.).

<sup>43</sup>IIJA, *supra* note 1, § 13002 (g)(1).

<sup>44</sup>Letter from the Hon. Shalini P. Bhatt, Administrator, FHWA, to the Hon. Sam Graves, Chairman, H. Comm. on Transp. and Infrastructure (Sept. 5, 2023) (on file with Comm.).

<sup>45</sup>Memorandum from Shalanda D. Young, Dir., Off. of Mgmt. and Budget to Heads of Exec. Depts. and Agencies (Apr. 18, 2022), available at <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>; Guidance for Grants and Agreements, 88 Fed. Reg. 8374 (Feb. 9, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-02-09/pdf/2023-02617.pdf>.

of the BABAA construction materials provision.<sup>46</sup> However, the stakeholder community stated that it needed additional clarity and final guidance in order to ensure proper compliance with these provisions.<sup>47</sup> On August 23, 2023, 15 months after releasing its initial guidance, final guidance related to BABAA was issued.<sup>48</sup>

DOT has not implemented all Congressionally mandated policies designed to address supply chain challenges. For example, IIJA directed DOT to establish the Office of Multimodal Freight Infrastructure and Policy. The Office was formally announced on November 27, 2023, and although a Deputy Assistant Secretary is in place in the office, the Department has yet to name an Assistant Secretary to lead the office, as required by IIJA.<sup>49</sup> Although historic backlogs are no longer the Nation's top supply chain concern, challenges remain within the network and addressing these issues will allow America to maintain economic competitiveness.<sup>50</sup> The Office of Multimodal Freight Infrastructure and Policy will likely play a significant role in coordinating the Federal response to future supply chain challenges, as well as engage industry and states in addressing these issues.<sup>51</sup>

The Department has also pursued policies through executive action that were excluded from the law. On December 7, 2023, FHWA published a final rule to require states and MPOs to establish a new performance measure with declining targets for carbon dioxide and to measure and report greenhouse gas (GHG) emissions associated with transportation on the National Highway System.<sup>52</sup> Congress included provisions to address climate change and transportation resiliency in IIJA.<sup>53</sup> Although a rule requiring a new highway related greenhouse gas GHG performance measure was included in the House-passed H.R. 3684, INVEST in America Act, it was considered and disposed of during IIJA negotiations.<sup>54</sup> The Administration cites section 150 of title 23 U.S.C. as the authority for its rulemaking.<sup>55</sup>

## V. INFLATION

Inflation continues to affect the purchasing power of highway funding made available by Congress in the IIJA.<sup>56</sup> The Committee has received testimony from industry stakeholders regarding the detrimental impact of inflation on infrastructure spending.<sup>57</sup> Inflation began increasing in 2021, and spiked to a 41-year record high of 9.1 percent in June 2022.<sup>58</sup> As of October 2023, the 12-month inflation rate had

<sup>46</sup> DOT, FHWA, *FHWA's Buy America Q and A for Federal-aid Program*, available at [https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm) (last updated Mar. 20, 2023); DOT, *FTA, Buy America Update, Construction Materials Waiver for Certain Contracts and Solicitations*, *FTA Internal Webinar* (Feb. 7, 2023), available at <https://www.youtube.com/watch?v=61UYE680by4>.

<sup>47</sup> *Reviewing the Implementation of the Infrastructure Investment and Jobs Act Before the Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Mar. 28, 2023).

<sup>48</sup> Guidance for Grants and Agreements, 88 Fed. Reg. 162, 57750 (Aug. 23, 2023).

<sup>49</sup> Press Release, DOT, *Biden-Harris Administration Announces New Freight Office and Major Progress Strengthening Supply Chains*, (Nov. 27, 2023), available at <https://www.transportation.gov/briefing-room/biden-harris-administration-announces-new-freight-office-and-major-progress-iija>; Dashboard, *supra* note 5.

<sup>50</sup> Letter from Agriculture Transp. Coalition, et al., to the Hon. Pete Buttigieg, Sec'y, DOT (Aug. 30, 2023) (on file with Comm.).

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

<sup>52</sup> DOT, FHWA, *Assessing the Performance of the National Highway System, Greenhouse Gas Emissions Measure*, available at [https://www.fhwa.dot.gov/tpm/RIN-2125-AF99\\_Performance\\_Management\\_GHG\\_Measure\\_Final\\_Rule\\_11-19-23.pdf](https://www.fhwa.dot.gov/tpm/RIN-2125-AF99_Performance_Management_GHG_Measure_Final_Rule_11-19-23.pdf) [hereinafter GHG Emissions].

<sup>53</sup> DOT, OFFICE OF PUBLIC AFFAIRS, *Fact Sheet: Climate and Resilience in the Bipartisan Infrastructure Law*, (Jul. 5, 2022), available at <https://www.transportation.gov/bipartisan-infrastructure-law/fact-sheet-climate-and-resilience-bipartisan-infrastructure-law>.

<sup>54</sup> National Performance Management Measures, 88 Fed. Reg. 85364 (Dec. 7, 2024), available at <https://www.federalregister.gov/documents/2023/12/07/2023-26019/national-performance-management-measures-assessing-performance-of-the-national-highway-system>.

<sup>55</sup> GHG Emissions, *supra* note 52.

<sup>56</sup> Noel Fletcher, *FHWA Says Highway Construction Costs Continue to Soar*, TRANSPORT TOPICS, (Nov. 20, 2023), available at <https://www.ttnews.com/articles/fhwa-highway-costs-soar>.

<sup>57</sup> *Reviewing the Implementation of the Infrastructure Investment and Jobs Act Before the Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Mar. 28, 2023) (Testimony of Dwayne Boyd and Aric Dreher).

<sup>58</sup> See Megan Henny, *Inflation Rises by 3.2 Percent, Less than Expected, But High Prices Persist*, FOX BUSINESS, (Nov. 14, 2023), available at <https://www.foxbusiness.com/economy/cpi-inflation-october-2023>; UNITED STATES BUREAU OF LABOR STAT., *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>.

fallen to 3.2 percent.<sup>59</sup> Although there has been a decrease, inflation pressures continue to run significantly higher than the Federal Reserve's target inflation rate of two percent for a stable economy.<sup>60</sup> October marked the 32nd consecutive month that the rate remains above the two percent target.<sup>61</sup>

Within the construction industry, inflation can result in higher costs of construction materials and other resources necessary for project completion including higher costs of fuel, equipment, technology, labor, and transportation.<sup>62</sup> According to the Bureau of Transportation Statistics (BTS) "2023 Year-in-Review," as of the first quarter of 2023, highway construction costs had increased 53.8 percent compared to the same time in 2020, and further, highway construction costs have gone up in nine out of the last 10 quarters.<sup>63</sup> BTS also cited the first quarter of 2023 as a new all-time high of the National Highway Construction Cost Index.<sup>64</sup>

Previously, 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>65</sup> During a March 2023 Subcommittee on Highways and Transit hearing, the witness representing the American Association of State Highway and Transportation Officials (AASHTO) raised concerns about the ability of states to capitalize on IIJA funding due to inflation, and noted that in Texas, the moving average had increased to 34.7 percent whereas the IIJA funds only represented "a six percent increase in Texas State DOT's overall funding."<sup>66</sup> AASHTO previously indicated in June 2022 that "[t]he cost of those projects is going up by 20 percent, by 30 percent, and just wiping out that increase from the Federal [G]overnment that they were so excited about earlier in the year."<sup>67</sup> At the same hearing, testimony from ARTBA acknowledged the cost of construction inputs showed significant increases but noted variance in the extent of the problem by state, region, and project type including that, "we have seen a significant number of states in which project bids continue to come in below the initial engineer's estimates."<sup>68</sup> Further, ARTBA noted that "any discussion about materials, prices, and inflation needs to also recognize that, without the infrastructure law, we would very likely be looking at a market contraction."<sup>69</sup> While inflation has moderated over the past several months from the historically high levels seen in recent years, it continues to impact construction costs.

2022-largest-increase-in-40-years.htm; UNITED STATES BUREAU OF LABOR STAT., *Consumer Price Index Historical Tables for U.S. City Average*, (last updated July 2023), available at [https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical\\_us\\_table.htm](https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm).

<sup>59</sup> UNITED STATES BUREAU OF LABOR STAT., *Consumer Price Index—October 2023*, (Nov. 24, 2023), available at <https://www.bls.gov/news.release/cpi.nr0.htm>.

<sup>60</sup> Andrea Miller, *The Federal Reserve's 2 Percent Inflation Targeting Policy Explained*, CNBC, (Feb. 20, 2023), available at <https://www.cnbc.com/2023/02/20/the-federal-reserves-2percent-inflation-targeting-policy-explained.html#:~:text=The%202%25%20inflation%20target%20is,to%20the%20International%20Monetary%20Fund.>

<sup>61</sup> UNITED STATES BUREAU OF LABOR STAT., *12-Month Percentage Change, Consumer Price Index, selected categories*, (last accessed Dec. 8, 2023), available at <https://www.bls.gov/charts/consumer-price-index/consumer-price-index-by-category-line-chart.htm>.

<sup>62</sup> Evan McDowell, *How Does Inflation Affect the Construction Industry?*, AUSTIN NICHOLS TECHNICAL SEARCH, (May 1, 2023), available at [https://www.austintec.com/how-inflation-affect-construction-industry/#:~:text=Additionally%2C%20raw%20materials%20such%20as,companies%20who%20order%20from%20them;How%20Does%20Inflation%20Affect%20Construction%20Industry?,THE%20CONSTRUCTOR,available%20at%20https://theconstructor.org/construction/inflation-affect-construction-industry/565090/.](https://www.austintec.com/how-inflation-affect-construction-industry/#:~:text=Additionally%2C%20raw%20materials%20such%20as,companies%20who%20order%20from%20them;How%20Does%20Inflation%20Affect%20Construction%20Industry?,THE%20CONSTRUCTOR,available%20at%20https://theconstructor.org/construction/inflation-affect-construction-industry/565090/)

<sup>63</sup> DOT, BUREAU OF TRANSP. STATISTICS, *Transportation Economic Trends*, available at <https://data.bts.gov/stories/s/9kj8-x76q>.

<sup>64</sup> *Id.*

<sup>65</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-iija-buying-power/>; Julie Strupp, *Inflation Could Sap Infrastructure Act's Buying Power This Year*, CONSTRUCTION DRIVE, (Jan. 3, 2023), available at [https://www.constructiondrive.com/news/inflation-saps-infrastructure-act-iija-buying-power/639518/.](https://www.constructiondrive.com/news/inflation-saps-infrastructure-act-iija-buying-power/639518/)

<sup>66</sup> *Reviewing the Implementation of the Infrastructure Investment and Jobs Act Before the Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Mar. 28, 2023) (statement of Marc D. Williams, Member of the Board of Directors, AASHTO).

<sup>67</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.](https://apnews.com/article/inflation-us-infrastructure-projects-e89dcd5f3e623e532353f087265f9a63)

<sup>68</sup> *Reviewing the Implementation of the Infrastructure Investment and Jobs Act Before the Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Mar. 28, 2023) (statement of Paula Hammond, 2023 Chair, ARTBA).

<sup>69</sup> *Id.*

VI. WITNESSES

- The Honorable Carlos Monje, Under Secretary of Transportation for Policy, Office of the Secretary of Transportation, United States Department of Transportation
- The Honorable Shailen Bhatt, Administrator, Federal Highway Administration, United States Department of Transportation
- The Honorable Nuria Fernandez, Administrator, Federal Transit Administration, United States Department of Transportation
- The Honorable Robin Hutcherson, Administrator, Federal Motor Carrier Safety Administration, United States Department of Transportation
- Ms. Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration, United States Department of Transportation



**OVERSIGHT OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT: MODAL PERSPECTIVES**

WEDNESDAY, DECEMBER 13, 2023

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:01 a.m., in room 2167 Rayburn House Office Building, Hon. Eric A. “Rick” Crawford (Chairman of the subcommittee) presiding.

Mr. CRAWFORD. The Subcommittee on Highways and Transit will come to order.

I ask unanimous consent that the chairman be authorized to declare a recess at any time during today’s hearing. Without objection, so ordered.

I also ask unanimous consent that Members not on the subcommittee be permitted to sit with the subcommittee at today’s hearing and ask questions. Without objection, so ordered.

As a reminder, if Members wish to insert a document into the record, please also email it to DocumentsTI@mail.house.gov.

I ask unanimous consent to enter a letter from Senator Capito and several other Senators, and a press release from Senator Cramer, into the record. Without objection, so ordered.

[The information follows:]

**Letter of October 13, 2022, to Stephanie Pollack, Deputy Administrator, Federal Highway Administration, Docket Management Facility, U.S. Department of Transportation, from U.S. Senator Shelley Moore Capito et al., Submitted for the Record by Hon. Eric A. “Rick” Crawford**

UNITED STATES SENATE,  
WASHINGTON, DC 20510,  
*October 13, 2022.*

Ms. STEPHANIE POLLACK,  
*Deputy Administrator,  
Federal Highway Administration, Docket Management Facility, United States Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.*

Re: Docket No. FHWA–2021–0004

DEAR DEPUTY ADMINISTRATOR POLLACK,  
We write to express our opposition to the Federal Highway Administration’s (FHWA) Notice of Proposed Rulemaking (NPRM) on a National Performance Management Measure; Assessing Performance of the National Highway System, Greenhouse Gas (GHG) Emissions Measure, Docket No. FHWA–20210004 (hereinafter

“proposal”). FHWA’s proposal exceeds the agency’s limited statutory authority provided by Congress. We are especially troubled by this attempted overreach given the Supreme Court’s recent ruling in *West Virginia v. US Environmental Protection Agency*, 142 S. Ct. 2587 (2022), which made clear that agency actions implicating major questions require clear congressional authorization. The signatories of this letter, which include members of the Senate Committee on Environment and Public Works with oversight authority of FHWA, respectfully request FHWA withdraw the proposal.

Current law does not provide any authority to make this proposal. A regulatory action such as this one is particularly suspect when an agency suddenly discovers in statute an authority that “allow[s] it to adopt a regulatory program that Congress had conspicuously and repeatedly declined to enact itself.” *Id.* at 2610. Congress debated incorporating a greenhouse gas emissions performance measure and associated targets into title 23 of the United States Code (U.S.C.) during the development of the recent five-year surface transportation reauthorization legislation. The House passed legislation that would have provided FHWA with such authority. *See* H.R. 3684 section 1403 (as engrossed in the House on July 1, 2021). The legislation that the Senate and House ultimately passed and President Biden signed into law in the Infrastructure Investment and Jobs Act (P.L. 117–58; IIJA) did not. Nowhere in the IIJA did Congress provide FHWA with any statutory authority to impose the performance measure or the requirement to set declining targets on state departments of transportation (DOTs) and metropolitan planning organizations (MPOs) contained in this proposal. FHWA cannot create of its own choosing the authority that Congress debated, considered, and rejected.

FHWA’s attempt to create new authorities where Congress has not provided them would infringe on state DOTs’ necessary flexibility to meet the surface transportation needs of their residents. FHWA’s proposal is especially egregious because the agency seeks to “regulate a significant portion of the American economy” and potentially “require billions of dollars in spending” by private persons or entities.” *See West Virginia*, 142 S. Ct. at 2621 (internal quotation omitted). If finalized, the proposal would commandeer state DOTs’ authority by forcing them to reduce vehicle emissions, likely necessitating shifts in vehicle fuel type usage and transportation modes without clear statutory authority. The proposal would also impose significant changes on the American economy and private spending as it would incentivize switching to electric vehicles, reducing vehicle miles traveled, and restructuring transportation networks.

FHWA attempts to justify the proposal based on a misguided and erroneous interpretation of section 150 and other sections in title 23, U.S.C. The 2012 surface transportation reauthorization law, the Moving Ahead for Progress in the 21st Century (MAP–21), Pub. L. 112–141, mandated a performance management approach for certain programs administered by the FHWA. Specifically, Congress established national goals and stipulated how those goals, the performance measures, and associated performance targets would be integrated into certain programs and federal transportation planning requirements. Section 150(b) sets forth the national goals of the federal-aid highway program, including “environmental sustainability,” which is defined as activities “to enhance the performance of the transportation system *while* protecting and enhancing the natural environment” (emphasis added). Section 150(c)(3) provides FHWA with authority to establish performance measures for conditions of pavement and bridges and performance of the Interstate System and National Highway System (NHS). The authority in 23 U.S.C. 150(c)(3) contains no reference to greenhouse gas emissions. Similarly, the National Highway Performance Program (NHPP) authorized in 23 U.S.C. 119, which FHWA tries to cite as providing authority for this proposal, does not include any discussion of environmental performance, let alone a reduction in greenhouse gas emissions.

FHWA wrongly asserts that section 150(c)(3) provides the agency with the regulatory authority necessary to pursue a GHG performance measure. The agency claims that because Congress did not define the term “performance” and because “environmental sustainability” is a national goal, FHWA has the authority to determine the nature and scope of “performance.” FHWA claims “performance” of the Interstate System and NHS under NHPP includes “environmental performance.” This interpretation of “performance” is contradicted by a plain text reading of 23 U.S.C. 150. “Performance” throughout section 150 was not intended to mean “environmental performance” which is evident by the environmental sustainability goal in section 150(b). The later part of the goal, would not be necessary if Congress intended “performance” to include “environmental performance.”

FHWA also asserts that President Biden’s Executive Orders 13990 and 14008 provide justification for the proposal and direct state DOTs and MPOs to set targets that align with those orders. Those orders can provide no further authority for



FHWA to enact this proposal absent statutory authority. To tie performance measures and corresponding targets to executive orders creates long-term uncertainty for state DOTs and MPOs. Policy that is mandated in such a manner shifts with each change in administration, further demonstrating the pitfalls of attempting to enact policy absent specific congressional authorization.

Even if FHWA had authority to issue this proposal, the proposal would still be unreasonable in its execution. The proposal diverges from the construct of other performance measures established in 23 U.S.C. 150(c) by requiring state DOTs and MPOs to set *declining* (emphasis added) targets for greenhouse gas emissions. This requirement restricts the ability for state DOTs and MPOs to set targets using a data-driven approach. Further hindering compliance, the proposal directs greenhouse gas emission targets to be set by October 1, 2022, before the comment period is even closed. The changes state DOTs and MPOs would need to make to achieve declining greenhouse gas emissions targets for each Transportation Performance Management four-year reporting period would take years of planning and execution.

FHWA has selected 2021 as the reference year to calculate the performance measure, making it even more difficult for state DOTs and MPOs to achieve a declining target. While we understand that 2021 was the most recent year for which data will be complete and available, the nation was still recovering from the COVID-19 pandemic at that time, which significantly impacted roadway travel. During the nationwide lockdown in 2020, there was a historic drop in light duty travel that totaled almost 355 billion vehicle miles, a reduction of over 12 percent from 2019, according to FHWA. While total vehicle miles traveled (VMT) rose in 2021 to almost pre-pandemic levels, VMT was still lower than 2019 levels and lower than what was predicted pre-pandemic. If those models stand true, and VMT gradually adjusts to predicted levels, the 2021 reference year would disadvantage all state DOTs' and MPOs' ability to achieve declining targets.

The proposal also lacks a rural state exemption, taking a one-size-fits-all approach to addressing greenhouse emissions. When Congress debated providing FHWA with the authority for a greenhouse gas performance measure, an exemption for states with certain population densities was considered. FHWA's proposal disadvantages rural states and places an unreasonable burden on them by failing to recognize the unique situation of those states. For example, one theoretical way to reduce greenhouse gas emissions in urban areas is to increase usage of alternative transportation options, such as public transit and biking. However, in rural areas, modal shifts are often not feasible and do not improve connectivity and safety in the way they might in a large urban area.

In sum, FHWA does not have the statutory authority to proceed with this proposal. The agency's actions demonstrate a complete disregard for the law and an overreach of its authority provided by Congress. Again, we request that you withdraw this proposal immediately and instead focus staff time and resources on the implementation of the IIJA as enacted by Congress.

Sincerely,

SHELLEY MOORE CAPITO,  
*Ranking Member, Environment and  
Public Works Committee.*

KEVIN CRAMER,  
*United States Senator.*

JOHN BARRASSO, M.D.,  
*United States Senator.*

JOHN BOOZMAN,  
*United States Senator.*

MIKE BRAUN,  
*United States Senator.*

RICHARD BURR,  
*United States Senator.*

SUSAN M. COLLINS,  
*United States Senator.*

JOHN CORNYN,  
*United States Senator.*

MIKE CRAPO,  
*United States Senator.*

TED CRUZ,  
*United States Senator.*

STEVE DAINES,  
*United States Senator.*

JONI K. ERNST,  
*United States Senator.*

DEB FISCHER,  
*United States Senator.*

LINDSEY O. GRAHAM,  
*United States Senator.*

JOHN HOEVEN,  
*United States Senator.*

JAMES M. INHOFE,  
*United States Senator.*

JAMES LANKFORD,  
*United States Senator.*

CYNTHIA M. LUMMIS,  
*United States Senator.*

ROGER MARSHALL, M.D.,  
*United States Senator.*

LISA MURKOWSKI,  
*United States Senator.*

ROB PORTMAN,  
*United States Senator.*

JAMES E. RISCH,  
*United States Senator.*

RICHARD SHELBY,  
*United States Senator.*

DAN SULLIVAN,  
*United States Senator.*  
 JOHN THUNE,  
*United States Senator.*

THOM TILLIS,  
*United States Senator.*  
 ROGER F. WICKER,  
*United States Senator.*

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**Press Release of July 7, 2022, from U.S. Senator Kevin Cramer, Submitted  
 for the Record by Hon. Eric A. “Rick” Crawford**

July 7, 2022

SEN. CRAMER STATEMENT ON FEDERAL HIGHWAY ADMINISTRATION’S GREENHOUSE  
 GAS EMISSIONS PERFORMANCE MEASURE PROPOSED RULE

WASHINGTON, DC.—U.S. Senator Kevin Cramer (R–ND), Ranking Member of the Transportation and Infrastructure Subcommittee, issued the following statement in response to the Federal Highway Administration’s (FHWA) proposed rule to impose greenhouse gas emissions performance measures on state departments of transportation and metropolitan planning organizations without any new authority from Congress:

“The Biden Administration’s Federal Highway Administration is veering off course once again. First, they issued guidance aiming to upend the funding flexibility given to states and now they want to saddle state transportation departments with emission reduction requirements. In both instances, Congress expressly excluded these authorities in the Infrastructure Investment and Jobs Act and now the Administration is attempting an end-run based on their wishes, not the law.

“This proposed rule needs to be fully rescinded. It is dumb policy and the Biden Administration should take a hint from the recent *West Virginia v. EPA* decision which reminded agencies to stay within the confines Congress gave them.”

Mr. CRAWFORD. I now recognize myself for the purposes of an opening statement for 5 minutes.

**OPENING STATEMENT OF HON. ERIC A. “RICK” CRAWFORD OF  
 ARKANSAS, CHAIRMAN, SUBCOMMITTEE ON HIGHWAYS AND  
 TRANSIT**

Mr. CRAWFORD. Good morning. I thank each of our witnesses for being here today. The Under Secretary and the four modal Administrators before us represent the full scope of the jurisdiction of the Subcommittee on Highways and Transit. However, despite the subcommittee’s long record of bipartisan oversight efforts, we have not had any modal Administrators before us since 2019.

Today’s witnesses can help provide clarity on myriad issues related to the implementation of the Infrastructure Investment and Jobs Act, or IIJA, as they and the people in the programs they represent play a pivotal role in the Department of Transportation’s efforts to enact this legislation.

Just last month, we marked 2 years since the passage of IIJA, which provided historic funding increases for America’s infrastructure, including over a half trillion dollars for programs under this subcommittee’s jurisdiction. IIJA significantly increased funding for existing programs, created new programs with new eligibilities, and increased, by nearly 500 percent, the amount of competitive grant funding the Secretary will award. The 5-year average funding provided by IIJA for the modes under this subcommittee’s jurisdiction increased by approximately 80 percent compared to the levels in the last surface reauthorization bill, the Fixing America’s Surface Transportation, or FAST, Act.

In the 2 years since IIJA became law, persistent inflation has pushed up prices. Transportation and infrastructure projects and

the companies that provide products and services in those sectors have not been immune to these rising costs. Prices on necessary materials such as concrete and aggregate, pipes, steel and iron, construction equipment, and labor have all remained high since the passage of IIJA. In September, the Federal Highway Administration released updated data for its National Highway Construction Cost Index. What Federal Highways found was in the first quarter of 2023, the construction index reached a new all-time high. Further, according to the Department of Transportation's Bureau of Transportation Statistics, highway construction costs have increased in 9 of the last 10 quarters. And compared to the last quarter of 2020, highway construction costs increased 53.8 percent.

The expected increase in purchasing power provided by IIJA has, therefore, greatly diminished. Not only am I concerned about inflationary pressures on IIJA and its projects, but as I have said many times before, the administration's focus should be on enacting the legislation as written, not on pushing progressive policy proposals that didn't make it into the final law.

For example, the day before Thanksgiving, when I'm sure all of us were focused on refreshing the Department's website just waiting for an important proclamation, FHWA announced that it had, at lightning speed, finalized the rule to create a new greenhouse gas performance measure to cut tailpipe emissions stemming from transportation on the National Highway System.

I understand that you all have seemingly been tasked by the White House with tackling climate change first and your core missions second, but my concern is that during consideration of IIJA, the Senate considered this policy proposal and expressly excluded it from the final legislation. There is simply no congressional mandate or provided authority to take this action.

Another example: DOT, with strong direction from the Policy Office, has been using its funding notices for discretionary grant programs to layer on requirements that do not exist in statute. And while we have received press release after press release announcing funding awards, these are not legally binding documents. I think we can all agree that Federal money has plenty of strings attached to it by Congress. There is no reason to add even more at the agency level.

I am also very concerned at the extremely slow rate that these grant agreements are being negotiated among the parties and signed, since, according to the numbers, they aren't. You advertise that you are making grants, but the money isn't going out the door and projects aren't being done.

I could go on, but I simply reiterate the message from our shared transportation stakeholders: Slow execution of contracts and confusing guidance documents have the very real risk of delaying critical transportation projects, which are necessary to move people and freight safely and efficiently throughout the country. Even though I did not support IIJA, it is the law, and I will ensure that resources provided by Congress are addressing our most pressing transportation, safety, infrastructure, and supply chain needs, which I know is a shared bipartisan goal of all of us here in the room today.

The bill was not a blank check for this administration to pursue ancillary social or environmental policies unrelated to the Nation's transportation systems. This committee will work with DOT and the agencies represented here to ensure that taxpayer dollars are spent wisely and prudently on the real infrastructure improvements our Nation requires.

Once again, I thank our witnesses for appearing before the committee today, and I look forward to a productive dialogue.

[Mr. Crawford's prepared statement follows:]

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**Prepared Statement of Hon. Eric A. "Rick" Crawford, a Representative in Congress from the State of Arkansas, and Chairman, Subcommittee on Highways and Transit**

Good morning. I thank each of our witnesses for being here today. The Under Secretary and the four modal administrators before us represent the full scope of the jurisdiction of the Subcommittee on Highways and Transit. However, despite this subcommittee's long record of bipartisan oversight efforts, we have not had any modal administrators before us since 2019.

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In the two years since IIJA became law, persistent inflation has pushed up prices. Transportation and infrastructure projects and the companies that provide products and services in those sectors have not been immune to these rising costs. Prices on necessary materials such as concrete and aggregates, pipes, steel and iron, construction equipment, and labor have all remained high since the passage of IIJA. In September, the Federal Highway Administration (FHWA) released updated data for its National Highway Construction Cost Index (NHCCI). What Federal Highways found was in the first quarter of 2023, the Construction Index reached a new, all-time high. Furthermore, according to the Department of Transportation's Bureau of Transportation Statistics, highway construction costs have increased in 9 out of the last 10 quarters, and compared to the last quarter of 2020, highway construction costs increased 53.8 percent.

The expected increase in purchasing power provided by IIJA has, therefore, greatly diminished. Not only am I concerned about inflationary pressures on IIJA and its projects, but as I have said many times before, the Administration's focus should be on enacting the legislation as written, not on pushing progressive policy proposals that didn't make it into the final law.

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we can all agree that federal money has plenty of strings attached to it by Congress. There's no reason to add even more at the agency level.

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I could go on, but I will simply reiterate the message from our shared transportation stakeholders: slow execution of contracts and confusing guidance documents have the very real risk of delaying critical transportation projects, which are necessary to move people and freight safely and efficiently throughout the country. Even though I did not support IIJA, it is the law, and I will ensure the resources provided by Congress are addressing our most pressing transportation, safety, infrastructure, and supply chain needs, which I know is a shared, bipartisan goal of all of us here in the room today.

The bill was not a blank check for this administration to pursue ancillary social or environmental policies unrelated to the nation's transportation systems. This committee will work with DOT and the agencies represented here to ensure that taxpayer dollars are spent wisely and prudently on the real infrastructure improvements our nation requires.

Once again, I thank our witnesses for appearing before the Committee today and look forward to a productive dialogue.

Mr. CRAWFORD. I now recognize Ranking Member Norton for 5 minutes for an opening statement.

**OPENING STATEMENT OF HON. ELEANOR HOLMES NORTON  
OF THE DISTRICT OF COLUMBIA, RANKING MEMBER, SUB-  
COMMITTEE ON HIGHWAYS AND TRANSIT**

Ms. NORTON. I would like to thank subcommittee chair Rick Crawford for holding this hearing on the implementation of the Infrastructure Investment and Jobs Act.

The Infrastructure Investment and Jobs Act was one of the most important bills enacted last Congress. Within our subcommittee's jurisdiction, it provided \$365 billion for highways, \$108 billion for transit, \$43 billion for multimodal grants, and \$13 billion for highway and motor carrier safety.

The work of our subcommittee helped set the bar high. Many of the funding levels of the Infrastructure Investment and Jobs Act are similar to what we proposed in the INVEST Act.

Two years in, we are seeing the success of the law across the country. This past summer, the national capital region's transit agency, the Washington Metropolitan Area Transit Authority, received a \$104 million grant from the Federal Transit Administration to purchase zero-emission buses, convert an existing maintenance facility to serve electric buses, and train its workforce to operate and maintain electric buses.

I thank Administrator Fernandez and the Biden administration for this investment in good jobs and cleaner air for our region. Success stories like this are playing out across the Nation. Every Member in this room today, whether they voted for the Infrastructure Investment and Jobs Act or not, has at least one project funded in their congressional district.

As implementation continues, our country will see safer transportation, improved mobility, a cleaner environment, and better access for all communities.

Much work remains to be done. America is experiencing an epidemic of traffic fatalities, which is falling disproportionately on pedestrians, cyclists, and communities of color. I look forward to hear-

ing from each of our witnesses about their work to prevent these fatalities.

We must reckon with the rise of new technology such as autonomous vehicles and what it means for our workforce. Our workers are the backbone of our transportation network. As new technologies become prevalent, we must ensure that we protect jobs and give workers a seat at the table.

We must also work to mitigate the impact of our transportation system on the environment. Transportation is the largest source of greenhouse gas emissions in the United States, and our transportation policies and programs must be reformed accordingly. Expanding access to transit, walking, and biking infrastructure is a key part of the solution.

I also support the Federal Highway Administration's new requirement that States and metropolitan planning organizations track their highway emissions and make plans to reduce them. This requirement is derived from authority provided by Congress in 2012 and is a critical step in the right direction.

I also appreciate Department of Transportation-wide efforts to improve equity and address the decades of harm caused by our transportation system to low-income communities and communities of color. I urge the Department to ensure the Neighborhood Access and Equity funding approved by this committee as part of the Inflation Reduction Act is quickly put to use.

Thank you to our witnesses today. I appreciate your diligent work to implement the Infrastructure Investment and Jobs Act and the diverse and thoughtful perspectives you bring to the challenges ahead. I look forward to today's discussion.

Thank you, Mr. Chairman.

[Ms. Norton's prepared statement follows:]

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**Prepared Statement of Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia, and Ranking Member, Subcommittee on Highways and Transit**

I would like to thank Subcommittee Chair Rick Crawford for holding this hearing on the implementation of the Infrastructure Investment and Jobs Act.

The Infrastructure Investment and Jobs Act was one of the most important bills enacted last Congress. Within our Subcommittee's jurisdiction, it provided \$365 billion for highways, \$108 billion for transit, \$43 billion for multi-modal grants and \$13 billion for highway and motor carrier safety.

The work of our Subcommittee helped set the bar high. Many of the funding levels in the Infrastructure Investment and Jobs Act are similar to what we proposed in the INVEST Act.

Two years in, we are seeing the success of the law across the country. This past summer, the national capital region's transit agency, the Washington Metropolitan Area Transit Authority, received a \$104 million grant from the Federal Transit Administration to purchase zero-emission buses, convert an existing maintenance facility to serve electric buses and train its workforce to operate and maintain electric buses.

I thank Administrator Fernandez and the Biden Administration for this investment in good jobs and cleaner air for our region. Success stories like this are playing out across the nation. Every Member in this room today—whether they voted for the Infrastructure Investment and Jobs Act or not—has at least one project funded in their congressional district.

As implementation continues, our country will see safer transportation, improved mobility, a cleaner environment and better access for all communities.

Much work remains to be done. America is experiencing an epidemic of traffic fatalities, which is falling disproportionately on pedestrians, cyclists and communities

of color. I look forward to hearing from each of our witnesses about their work to prevent these fatalities.

We also must reckon with the rise of new technology, such as autonomous vehicles, and what it means for our workforce. Our workers are the backbone of our transportation network. As new technologies become more prevalent, we must ensure that we protect jobs and give workers a seat at the table.

We also must work to mitigate the impact of our transportation system on the environment. Transportation is the largest source of greenhouse gas emissions in the United States, and our transportation policies and programs must be reformed accordingly. Expanding access to transit, walking and biking infrastructure is a key part of the solution.

I also support the Federal Highway Administration's new requirement that states and Metropolitan Planning Organizations track their highway emissions and make plans to reduce them. This requirement is derived from authority provided by Congress in 2012 and is a critical step in the right direction.

I also appreciate Department of Transportation-wide efforts to improve equity and redress the decades of harm caused by our transportation system to low-income communities and communities of color. I urge the department to ensure the Neighborhood Access and Equity funding, approved by this committee as part of the Inflation Reduction Act, is quickly put to use.

Thank you to our witnesses today. I appreciate your diligent work to implement the Infrastructure Investment and Jobs Act, and the diverse and thoughtful perspectives you bring to the challenges ahead. I look forward to today's discussion.

Mr. CRAWFORD. Thank you, Ms. Norton.

And I would recognize Chairman Graves; he is not able to be with us for this particular hearing. So, I now recognize the ranking member of the full committee, Mr. Larsen, for 5 minutes for an opening statement.

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

Mr. LARSEN OF WASHINGTON. Thank you, Mr. Chair. And I want to thank the chair and ranking member for having this hearing today.

And I want to welcome all the DOT witnesses, and thanks for participating in the subcommittee hearing today about your work to implement the BIL.

The Bipartisan Infrastructure Law is, and this hearing today, is another opportunity to highlight how these Federal infrastructure dollars are benefiting communities and helping us build a cleaner, greener, safer, and more accessible transportation system.

Congress provided \$530 billion in the BIL for roads, bridges, transit, buses, ferries, and other infrastructure needs under this subcommittee's jurisdiction. The investment level and number of new initiatives in the BIL far exceed previous transportation bills, and Congress handed DOT a tall order in implementing this legislation.

Yet in the first 2 fiscal years of the BIL, the Department distributed over \$180 billion in highway funds and \$40 billion in transit funds to States and localities. Funding has gone out under more than three dozen competitive grant programs, and more is on the way.

Just this morning, the Department announced awards for the Safe Streets for All program, totaling \$810 million for 385 projects nationwide, including—and you will be surprised when we are talking about this—three in my district—yes, indeed—totaling about \$1.4 million to help the city of Anacortes and Skagit County de-

velop roadway safety action plans, and the Lummi Indian Business Council to test nine safety demonstration projects.

Yesterday, the Department announced awards for 18 projects under the Rural Surface Transportation Grant Program which totaled \$645 million. This funding will help rural communities reconstruct road and freight infrastructure to make them safer and more accessible.

I highlight these award announcements because they clearly demonstrate how communities across the U.S. are seeing the benefits of the Bipartisan Infrastructure Law, but also seeing the benefits in this law by the creation of jobs. These dollars translate into projects on the ground and jobs for American workers.

Through September 2023, these dollars have supported over 60,000 highway projects alone, according to an analysis by the American Road and Transportation Builders Association. There is at least one new project underway in every congressional district in the country, according to ARTBA.

Thanks to the BIL, the Department has awarded \$25 million in RAISE grants to Whatcom County in my district to replace the 60-year-old Lummi Island Ferry. Projects like this one and other projects across the country mean jobs—jobs with good wages, benefits, and working conditions for transportation workers and manufacturers. The BIL means more jobs in the transportation construction, transit, trucking, aviation, rail, and maritime sectors.

Without these investments, the economy would be in far worse shape. We are only 2 years through a 5-year bill, and the Department has invested in projects across the country, and there is more to come.

But now, Congress has the job of conducting oversight of implementation efforts by DOT, State DOTs, project sponsors, and industry to ensure these projects are delivered quickly and effectively, and the law is implemented in line with congressional intent.

Congress directed investments in the BIL to address many things, including addressing climate change and reducing carbon pollution. We directed investments to improve safety and equity outcomes on our transportation networks. And we wanted to put more decisionmaking power in the hands of local communities whose leaders know their infrastructure best. These and other changes are now in the hands of DOT to execute.

I applaud the Department's efforts to date on this front and the steps taken to address the unacceptably high rate of deaths, to prioritize equity considerations in grants, to ensure disadvantaged business enterprises reap the benefits of BIL funding, and to measure and reduce carbon pollution from transportation sources as provided in transportation law dating back a decade.

I welcome this opportunity to once again acknowledge and celebrate the infrastructure benefits each of our districts and constituents are reaping. This committee continues delivering bipartisan solutions for all Americans.

I want to thank the witnesses for their service and for guiding their agencies and the priorities Congress has asked you to implement. I look forward to today's discussion.

With that, I yield back.

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



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**Prepared Statement of Hon. Rick Larsen, a Representative in Congress  
from the State of Washington, and Ranking Member, Committee on  
Transportation and Infrastructure**

Thank you, Chairman Crawford and Ranking Member Norton, for holding this hearing.

Welcome to our Department of Transportation (USDOT) witnesses and thank you for participating today so the Subcommittee can learn more about your work to implement the Bipartisan Infrastructure Law (BIL).

Today's hearing is another opportunity to highlight how federal infrastructure dollars are benefiting communities and building a cleaner, greener, safer and more accessible transportation system.

Congress provided \$530 billion in the BIL for roads, bridges, transit, buses, ferries, and other infrastructure needs under the Highways and Transit Subcommittee's jurisdiction.

The investment level and number of new initiatives in the BIL far exceeds previous transportation bills. Congress handed USDOT a tall order in implementing this legislation.

In the first two fiscal years of the BIL, the Department distributed over \$180 billion in highway funds and \$40 billion in transit funds to states and localities. Funding has gone out under more than three dozen competitive grant programs, and more is on the way.

Just this morning, the Department announced awards for the Safe Streets For All program totaling \$817 million for 385 projects nationwide.

This includes three grants in my district totaling \$1.4 million to help the City of Anacortes and Skagit County develop roadway safety action plans and the Lummi Indian Business Council to test nine safety demonstration projects.

Yesterday, the Department announced awards for 18 projects under the Rural Surface Transportation Grant Program which totaled \$645 million. This funding will help rural communities reconstruct road and freight infrastructure to make them safer and more accessible.

I highlight these award announcements because they clearly demonstrate how communities across the U.S. are seeing the benefits of the BIL.

They are also seeing benefits through the creation of jobs. These dollars translate into projects on the ground and jobs for American workers.

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Without these investments, the economy would be in far worse shape.

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Now, Congress has the job of conducting oversight of implementation efforts by USDOT, state DOTs, project sponsors, and industry to ensure these projects are delivered quickly and effectively and that the law is implemented in line with Congressional intent.

Congress directed investments in the BIL to address many things including climate change and reduce carbon pollution. We directed investments to improve safety and equity outcomes on our transportation networks. And we wanted to put more decision-making power into the hands of local communities, whose leaders know their infrastructure needs best.

These and other policy changes are now in the hands of USDOT to execute.

I applaud the Department's efforts to date on this front and the steps taken to address the unacceptably high rate of deaths, to prioritize equity considerations in grants, to ensure Disadvantaged Business Enterprises reap the benefits of BIL funding, and to measure and reduce carbon pollution from transportation sources as provided for in transportation law dating back a decade.

I welcome this opportunity to once again acknowledge and celebrate the infrastructure benefits each of our districts and constituents are reaping.

This Committee continues delivering bipartisan solutions for all Americans.

I thank all of our witnesses for their service and for guiding your agencies and the priorities Congress has asked you to implement. I look forward to today's discussion.

Mr. CRAWFORD. I thank the ranking member.

Before I proceed, I want to welcome our newest member of the subcommittee, Representative Maloy from Utah. Thank you for being with us, and welcome to the subcommittee.

I now want to welcome our witnesses and thank them for being here today: the Honorable Carlos Monje, Under Secretary of Transportation for Policy, Office of the Secretary of Transportation; the Honorable Shailen Bhatt, Administrator, Federal Highway Administration; the Honorable Nuria Fernandez, Administrator, Federal Transportation Administration; the Honorable Robin Hutcheson, Administrator, Federal Motor Carrier Safety Administration; and Ms. Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration.

Briefly—I probably don't have to go into great detail, you know how these lights work—green means go, yellow means step on the gas because it is fixing to turn red, and that means you are going to run out of time.

Due to the nature of the committee hearings where we have five witnesses, we ask you to strictly adhere to the 5 minutes. If you hear this little sound [tapping gavel], that means you are exceeding your 5-minute allotted time, and we will ask you to wrap quickly so that we can get on to the next witness and then to Member questions.

I ask unanimous consent that the witnesses' full statements be included in the record. Without objection, so ordered.

I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing. 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.

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

With that, Mr. Under Secretary Monje, you are recognized for 5 minutes.

**TESTIMONY OF HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION; HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION; HON. NURIA I. FERNANDEZ, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION; HON. ROBIN HUTCHESON, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION; AND ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

**TESTIMONY OF HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. MONJE. Thank you.

Chairman Graves, Ranking Member Larsen, Chair Crawford, and Ranking Member Norton, and members of the subcommittee, thank you for the opportunity to testify today and for your support as we continue to build a stronger, safer transportation system.

Last month, the administration celebrated our second year of implementing the Infrastructure Investment and Jobs Act, through which we have already implemented 37 new programs and announced funding for more than 40,000 projects and counting, in every corner of the country.

The Department has continued its strong history of accountability, responsibility, and financial stewardship. The career team behind DOT's implementation efforts won a 2023 Samuel J. Heyman Service to America Medal. That's the Sammies, it's the Oscars for public servants. And the work doesn't stop.

Just this week, as Mr. Larsen mentioned, we announced \$650 million to 18 projects in rural areas to reconstruct or replace critical roads and bridges, upgrade freight hubs, and expand transit service.

I would like to share a few notable examples of how we are delivering on these priorities.

Safety is the Department's top priority, and in 2022, Secretary Buttigieg announced an ambitious goal of zero roadway deaths through the Department's National Roadway Safety Strategy. The infrastructure law gave us unprecedented resources to invest in road safety across the country. Awards under the Safe Streets and Roads for All program are already benefiting 70 percent of our Nation's population. Earlier today, Secretary Buttigieg announced another \$817 million for 385 projects to continue helping communities deploy safety improvements like enhanced crosswalks, roundabouts, and improved lighting. We are also making our roads and rails safer by improving risky at-grade rail crossings, advancing lifesaving technologies like automated emergency braking, and expanding the availability of truck parking.

We are doing all of this, first and foremost, so that our loved ones make it to holiday dinners and to make sure that the simple

act of walking to the grocery store or biking to work are as safe as they can be. But preventing crashes also benefits our economy, complementing the administration-wide efforts to provide American workers and businesses access to resources, access to markets, and good-paying union jobs. We are strengthening America's trucking workforce and creating pathways to attain more drivers through apprenticeship programs.

Meanwhile, we are investing heavily in our multimodal freight network, improving our ports, and investing \$40 billion to replace and upgrade critical bridges across the country, including the Arland D. Williams, Jr. Memorial Bridge right here in Washington, and the Brent Spence Bridge between Kentucky and Ohio, the second worst bottleneck for trucks in the country.

Infrastructure investments like these are critical to making our supply chains more efficient, which ultimately cuts costs for consumers and drives down inflation. It is going to help your holiday presents arrive on time, keep store shelves stocked, and provide access to jobs, schools, and other vital destinations.

As we work to improve the safety of our transportation system and strengthen it as a core driver of our Nation's economy, we are mindful that the investments must reach everyone, especially in communities that historically have been left out of meaningful investment. That means rural and Tribal communities and communities of color. New programs created by the infrastructure law will reconnect communities that were previously divided by transportation structures, from capping interstates to reconfiguring interchanges to extending transit service, all so people can get to their destinations safely and easily.

We also know that smaller government agencies face a steep learning curve as they try to navigate the Federal funding landscape. That is why we are providing technical tools and organizational capacity—leveraging the experience of nonprofits, academia, and the private sector—to help disadvantaged and underresourced communities compete for Federal aid and deliver those projects once they get it, all in an effort to accelerate the benefits of those investments.

Through this work, we are building a more efficient and resilient transportation system while cutting carbon pollution and creating jobs. For example, we are investing in modernizing our Nation's bus fleet, more than doubling the number of zero- and low-emission buses on our roadways, while creating good-paying jobs in manufacturing operations and maintenance. We are also working with State and local governments to create a convenient, reliable, affordable, and equitable national EV charging network, which is already spurring private sector investment.

These generational investments will benefit our entire Nation, from its densest cities to its most remote communities. Whether you walk, roll, ride, or drive, we are committed to making your transportation experience safer, cleaner, more affordable, more reliable, and more efficient. And we are committed to working alongside Congress to deliver on these promises for the American people.

Thank you again. I look forward to your questions.

[Mr. Monje's prepared statement follows:]

**Prepared Statement of Hon. Carlos Monje, Jr., Under Secretary of Transportation for Policy, Office of the Secretary of Transportation, U.S. Department of Transportation**

Chairman Graves, Ranking Member Larsen, Chair Crawford, Ranking Member Norton, and members of the subcommittee—thank you for the opportunity to testify today and for your support as we continue to work to build a stronger, safer transportation system.

We just experienced one of the busiest Thanksgiving travel periods on our roads and in our skies in recent years. That includes the busiest air travel day ever; TSA screened 2.9 million passengers the Sunday after Thanksgiving, and for the holiday week, the airline cancellation rate remained under half a percentage point, well below the average and a testament to the hard work of countless people across the aviation system including our colleagues at the FAA. The holiday season tests our transportation system and serves as a reminder of how central transportation is to our prized traditions and everyday lives alike.

Last month, the Administration celebrated our second year of implementing the Infrastructure Investment and Jobs Act (IIJA) through which we've already implemented 37 new programs and announced funding for more than 40,000 projects and counting, in every state and territory. The Department has continued its strong history of accountability, responsibility, and financial stewardship. The career team behind DOT's efforts was one of the recipients of the 2023 Samuel J. Heyman Service to America Medals—the Oscars for public servants also known as the Sammies—for their leadership shaping and carrying out these historic investments in IIJA. And the work does not stop. Just this week, we announced an award of nearly \$650 million to 18 projects in rural areas to reconstruct or replace critical roads and bridges, upgrade freight hubs, and expand transit service. Projects like these are generational investments in transportation safety, economic competitiveness and jobs, equity, and climate and resilience.

I'd like to share a few notable examples of how we're delivering on these priorities for the American people.

Safety is the Department's top priority and in 2022, Secretary Buttigieg announced the ambitious goal of achieving zero roadway deaths through the Department's National Roadway Safety Strategy. The infrastructure law gave us new resources to invest in road safety improvements across the country in pursuit of this goal. Awards under the Safe Streets and Roads for All (SS4A) program are already benefiting 70 percent of our Nation's population. Earlier today, Secretary Buttigieg announced another \$817 million for 385 projects to continue helping communities deploy proven safety improvements like enhanced crosswalks, roundabouts, and improved lighting. We're also making our roads and rails safer by improving risky at-grade rail crossings, advancing life-saving technologies like automatic emergency braking, and expanding the availability of truck parking.

We're doing all of this first and foremost so our loved ones make it to holiday dinners, and to make sure that the simple acts of walking to the grocery store or biking to work are as safe as they can be. But preventing and mitigating crashes benefits our economy as well, complementing Administration-wide efforts to provide American workers and businesses access to resources, markets, and good-paying union jobs. We are strengthening America's trucking workforce and creating pathways to recruit and train more drivers through apprenticeship programs. Meanwhile, we're investing heavily in our multi-modal freight network, improving our ports and investing \$40 billion to replace and upgrade critical bridges across the country, including the Arland D. Williams Jr. Memorial Bridge right here in DC and the Brent Spence Bridge between Kentucky and Ohio—currently the second worst truck bottleneck in the Nation.

Infrastructure investments like these are critical to making our supply chains more efficient, which ultimately cuts costs for consumers and drives down inflation—and will help your holiday presents arrive on time, keep store shelves stocked, and provide access to jobs, schools, medical appointments, and other vital destinations.

As we work to improve the safety of our transportation system and strengthen it as a core driver of our Nation's economy, we are mindful that the investments must reach everyone, especially in communities that historically have been left out of meaningful investment—often in rural, Tribal and communities of color. New programs created by the infrastructure law will reconnect communities that were previously divided by transportation structures, from capping interstates that currently

divide neighborhoods to reconfiguring interchanges and thoroughfares, all so people can get to their school, jobs, doctors' appointments, and family—safely and easily.

We're also cognizant that some of the most critical projects are not being funded simply because smaller agencies face a steep learning curve as they navigate the Federal funding landscape. That's why we're providing technical tools and organizational capacity—leveraging the expertise of non-profits, academia, and the private sector—to help disadvantaged and under-resourced communities compete for federal aid and deliver quality infrastructure projects. And we're not only helping communities compete for funding, but also partnering with federal, Tribal, state, and local project sponsors to speed up project delivery and thereby maximize and accelerate the benefits of these investments.

Through all this work, we're building a more efficient and resilient transportation system while cutting carbon pollution and creating jobs. For example, we're investing in modernizing the Nation's bus fleet, more than doubling the number of zero- and low-emissions buses on America's roadways, while creating good-paying American jobs in manufacturing and maintenance. We're also working with state and local governments to create a convenient, reliable, affordable, and equitable national EV charging network, which is already spurring private sector investment.

These generational investments will benefit our entire Nation, from its densest cities to its most remote communities. Whether you walk, roll, ride, or drive, or don't travel at all and rely on deliveries as a lifeline, we're committed to making your transportation experience safer, more affordable, and more efficient. And we're committed to working alongside Congress to deliver on these promises for the American people.

Thank you again, and I look forward to your questions.

Mr. CRAWFORD. Thank you.

Mr. Bhatt, you are recognized for 5 minutes.

**TESTIMONY OF HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. BHATT. Thank you, Chairman Crawford, Ranking Member Larsen, and Ranking Member Norton, and members of the subcommittee. Thank you for the opportunity to appear before you today.

The Bipartisan Infrastructure Law represents a once-in-a-generation investment in our Nation's infrastructure, competitiveness, communities, and resilience to climate change. And the Inflation Reduction Act provides historic investments and new opportunities to build a clean energy economy that creates good jobs and lowers costs for all working families. The dedication of the Federal Highway Administration's staff in delivering on the promise of these historic investments for the American public is inspiring. I have always said that a transportation agency exists for two reasons: to save lives and to make people's lives better.

FHWA's mission begins and ends with safety. Last month, I joined State and local officials at the site of a fire that took place under a section of I-10 near downtown Los Angeles, resulting in a closure in both directions. Within days, FHWA announced the immediate availability of \$3 million in "quick release" emergency relief funds for use by Caltrans to offset costs of emergency repair work. FHWA offered support to State and local officials and provided technical assistance to help respond to the closure of this vital corridor. Eight days after the fire, I was pleased to join local, State, and Federal officials as Governor Gavin Newsom announced the reopening of the I-10 freeway.

In June, FHWA provided a similar level of emergency support to help reopen I-95 in Philadelphia in record time after the tragic

tanker truck explosion which resulted in loss of life and a partial collapse of a bridge.

In addition to safety, FHWA's work is guided by an initiative we refer to as "DRIVEN for the 21st Century." There are six aspects of this initiative: delivery, resilience, innovation, values, equity, and our Nation. It is this first aspect of DRIVEN, delivery, that I would like to focus on today.

While everyone celebrates receiving a grant award, we at FHWA are committed to turning those awards into successful projects. Thanks to BIL and IRA, we have the funding necessary to make major improvements in our transportation system. FHWA has taken numerous actions supporting implementation of projects that improve safety and people's lives, including distributing more than \$180 billion in highway formula funding to States and issuing Notices of Funding Opportunity for approximately \$14.7 billion in available funds. We are currently administering nearly 1,500 grants totaling approximately \$10 billion across 15 discretionary programs, with more to come.

I recognize that inflationary pressure can present challenges for project sponsors, but this is not a unique challenge for U.S. transportation projects. I previously served in the private sector in a global transportation role, and inflation is a challenge we are dealing with on transportation projects globally. At FHWA, we are aware of these challenges and recognize that time is money, which is why we are committed to helping deliver projects on time and on budget.

The success of the BIL and IRA programs depend, in part, on streamlined delivery of funding to recipients. FHWA stood up a new permanent team to oversee grant management matters. We also implemented process reforms, and we continue to refine our management of these programs to increase efficiency and transparency, thereby benefiting the Nation via the delivery of new projects.

The Bipartisan Infrastructure Law is funding projects throughout the country that will deliver results for the U.S. transportation system and Americans as a whole. For example, the Bridge Investment Program Large Bridge Grant awards that FHWA announced in January 2023 included \$1.385 billion to rehabilitate and reconfigure the existing Brent Spence Bridge to improve interstate and local traffic flow between the interconnected Kentucky and Ohio communities on either side of the Ohio River. FHWA is focused on strong engagement with States and locals as they deliver the many projects funded by the BIL, ranging from small, routine projects to large, complex projects, like the Brent Spence Bridge. For example, key members of FHWA's leadership team and myself are in regular communication with Ohio and Kentucky leadership to ensure that this critical project stays on track.

As Administrator, I have had the privilege to travel around the country to see and hear the immediate need for safer, accessible, and resilient transportation. The transformational funding provided by Congress has enabled FHWA, in partnership with States and localities, to create a system that delivers for our economy and all of our people, while getting individuals and goods safely to their destinations.

There are no Democratic roads or Republican bridges. Transportation binds us all together, which is why we must work with each other to support the common good. FHWA remains committed to this task.

Thank you again for the opportunity to appear before you today. I will be happy to answer any questions.

[Mr. Bhatt's prepared statement follows:]

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**Prepared Statement of Hon. Shailen Bhatt, Administrator, Federal Highway Administration, U.S. Department of Transportation**

Chairman Crawford, Ranking Member Norton, and Members of the Subcommittee, thank you for the opportunity to appear before you today.

The Bipartisan Infrastructure Law (BIL) represents a once-in-a-generation investment in our Nation's infrastructure, competitiveness, communities, and resilience to climate change, and the Inflation Reduction Act (IRA) provides historic investments and new opportunities to build a clean energy economy that creates good jobs and lowers costs for all working families. The dedication of the Federal Highway Administration's staff in delivering on the promise of these historic investments for the American public is inspiring. I have always said that a transportation agency exists for two reasons: to save lives and to make people's lives better.

FHWA's mission begins and ends with safety. Last month, I joined State and local officials at the site of a fire that took place under a section of Interstate 10 near downtown Los Angeles, resulting in a closure in both directions. Within days, FHWA announced the immediate availability of \$3 million in "quick release" Emergency Relief funds for use by the California Department of Transportation (Caltrans) to offset costs of emergency repair work. FHWA offered support to State and local officials and provided technical assistance to help respond to the closure of this vital corridor. Eight days after the fire, I was pleased to join local, State, and Federal officials, including Vice President Harris, as Governor Gavin Newsom announced the reopening of the I-10 Freeway. In June, FHWA provided a similar level of emergency support to help reopen I-95 in Philadelphia, Pennsylvania in record time after the tragic tanker truck explosion which resulted in loss of a life and partial collapse of a bridge.

In addition to safety, FHWA's work is guided by an initiative we refer to as "DRIVEN for the 21st Century." There are six aspects to this initiative: Delivery, Resilience, Innovation, Values, Equity, and our Nation. It is this first aspect of DRIVEN, Delivery, that I would like to focus on today. While everyone celebrates receiving a grant award, we at FHWA are committed to turning those awards into successful projects.

Thanks to BIL and IRA, we have the funding necessary to make major improvements in our transportation system. FHWA has taken numerous actions supporting implementation of projects that improve safety and people's lives, including distributing more than \$180 billion in highway formula funding to States, and issuing Notices of Funding Opportunity (NOFOs) for approximately \$14.7 billion in available funds. We are currently administering nearly 1500 grants totaling approximately \$10 billion across fifteen discretionary programs, with more on the horizon.

I recognize that inflationary pressures can present challenges for project sponsors, but this is not a unique challenge for U.S. transportation projects. I previously served in a global transportation role, and inflation is a challenge we are dealing with globally. At FHWA, we are aware of these challenges and recognize that time is money, which is why we are committed to helping deliver projects on time and on budget.

The success of the BIL and IRA programs depend, in part, on streamlined delivery of funding to recipients. FHWA stood up a new, permanent team to oversee grants-management matters. We also implemented process reforms across our suite of Federal grant programs. We continue to refine our management of these programs to increase efficiency and transparency, thereby benefiting the Nation via the delivery of new projects.

The BIL is funding projects throughout the country that will deliver results for the U.S. transportation system and Americans as a whole. For example, the Bridge Investment Program Large Bridge Grant Awards FHWA announced in January 2023, included \$1.385 billion to rehabilitate and reconfigure the existing Brent Spence Bridge to improve interstate and local traffic flow between the inter-



connected Kentucky and Ohio communities on either side of the Ohio River. FHWA is focused on strong engagement with States and locals as they deliver the many projects funded by the BIL, ranging from small, routine projects to large, complex projects, like the Brent Spence Bridge. For example, key members of FHWA's leadership team and I are in regular communication with Ohio and Kentucky leadership to ensure that this critical project stays on track.

As Administrator, I have had the privilege to travel around the country to see and hear the immediate need for safer, accessible, and resilient transportation. The transformational funding provided by this Congress has enabled FHWA, in partnership with States and localities, to create a system that delivers for our economy and all of our people, while getting individuals and goods safely to their destinations. There are no Democratic roads or Republican bridges—transportation binds us all together, which is why we must work with each other to support the common good. FHWA remains committed to this task. Thank you again for the opportunity to appear before you today. I would be happy to answer any questions.

Mr. CRAWFORD. Thank you, Mr. Bhatt.

Administrator Fernandez, you are recognized for 5 minutes.

Can you hit your microphone, ma'am?

Ms. FERNANDEZ. Thank you, sir.

Mr. CRAWFORD. There we go.

**TESTIMONY OF HON. NURIA I. FERNANDEZ, ADMINISTRATOR,  
FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF  
TRANSPORTATION**

Ms. FERNANDEZ. Good morning, Chairman Crawford, Ranking Member Holmes Norton, Ranking Member Larsen, and members of the committee. Thank you for this opportunity to talk about President Biden's Bipartisan Infrastructure Law.

The Federal Transit Administration has been hard at work delivering the first 2 years of the largest investment in public transportation in American history, making available nearly \$40 billion to transit operators in communities nationwide. That is on top of our continued administration of critical emergency relief funds. All told, we have invested more than \$63 billion in almost 9,000 projects since November of 2021. And our work is far from done.

In Arkansas, thanks to the Bipartisan Infrastructure Law, Jonesboro received nearly \$2 million to transition to hybrid diesel-electric buses.

For the Cheyenne River Sioux Tribe in South Dakota, a \$600,000 Tribal Transit Grant means more reliable trips on a new bus and van, expanding transit across a 4,200-square-mile reservation.

Trains, buses, ferries, and equipment to maintain and modernize them, are being made in America at over 1,000 companies nationwide.

FTA's Capital Investment Grants program also continues building community-improving projects: from \$240 million in Minneapolis-St. Paul to expand a successful transit network into historically underserved communities, to \$150 million in Pittsburgh, building high-capacity bus transit along one of the busiest corridors in the Steel City. Both will reduce traffic and emissions, and help thousands get to jobs and school and healthcare.

FTA is carefully following transit ridership trends nationwide. In the past 2 years, ridership increased to 77 percent of pre-COVID levels. As agencies better understand community needs and adjust service to meet those needs, some agencies are actually seeing ridership above pre-pandemic levels.

Agencies large and small have redesigned bus routes, creating better service outside of traditional hours and providing equity of opportunity. To help that process, FTA funded 50 projects in 24 States to plan and adapt to these new patterns.

Communities, including some of our largest cities, do face fiscal challenges in transit operations. However, providing transportation for the people of our Nation is not a responsibility that we can simply decline. So, President Biden proposed expanded flexibility in how Federal transit funds can keep America moving.

In the minds of some, transit only is important in those big cities. Yes, urban areas are using increased transit investment to enhance regional economies. However, transit provides more than economic value to urban, rural, and suburban communities across the country. It also shows a moral commitment to leaving no American behind.

For every subway commuter, a veteran rides a paratransit van to a medical appointment at the VA hospital. For every college student heading to class, a smalltown worker rides to job training—both take the bus toward a successful future. For every millennial riding transit to his first job in the big city, a rural baby boomer has the freedom transit provides to grow old in her hometown.

In Mississippi, FTA funded transit covering 26 rural communities. A woman in Jackson told me about her husband who was in the hospital. She had a doctor's appointment, and he normally drove her. And for the first time she used on-demand transit. Her house is on a dirt road that doesn't even have a name. The transit driver picked her up, took her to the doctor, and returned her home. She said she never thought she would be one of those people who needed the services we support. Like millions of riders, she discovered transit when she needed it most.

Thanks to the Bipartisan Infrastructure Law, many people are experiencing more freedom thanks to more service. But we still have work to be done. Decades of underinvestment created a \$105 billion backlog in state of good repair.

Manufacturing transit vehicles needs to become more efficient and less expensive. And transitioning to a zero-emission future requires reskilling and increasing the transit workforce. FTA is working to meet all of these challenges.

We are also working to end assault against transit workers, because it's unacceptable that any public servant should worry about whether they will return home safely.

For every dollar invested in transit, \$5 of value is created. But the impact of transit is not only felt at the bottom lines; it is measured at the bottom step, when riders exit through open doors into a wider world of opportunity.

Thanks to the Bipartisan Infrastructure Law, that world is closer than ever, as we build more American vehicles, train more workers, and connect more Americans with their communities and opportunities they offer.

I look forward to your questions today, and thank you.

[Ms. Fernandez's prepared statement follows:]



**Prepared Statement of Hon. Nuria I. Fernandez, Administrator, Federal  
Transit Administration, U.S. Department of Transportation**

Good morning, Chairman Crawford and Ranking Member Holmes Norton. Thank you for this opportunity to talk about President Biden's Bipartisan Infrastructure Law.

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Thanks to the Bipartisan Infrastructure Law, many people are experiencing more freedom thanks to more service. We still have work to do. Decades of underinvestment created a \$105 billion backlog in state of good repair that we are addressing.

Manufacturing transit vehicles must become more efficient and less expensive. Transitioning to a zero-emission future requires reskilling and increasing the transit workforce, centering equity to ensure that underrepresented populations are recruited, trained, and retained. FTA is working to meet those challenges, including through 34 projects using registered apprenticeships to train the workforce of the future in this year's Low-No program alone.

We are also working to end assault against transit workers with every tool at our disposal. It is unacceptable to Secretary Buttigieg, and me, that any public servant should worry about whether they will return home safely from work. Among other measures, we will soon issue a General Directive on Required Actions Regarding Assaults on Transit Workers to make sure agencies are acting to address this issue as soon as possible.

We know that for every dollar invested in American transit, five dollars of value is created. But, the impact of transit is shown not only on bottom lines. It is measured at the bottom step, when riders exit through open doors, into a wider world of opportunity.

Thanks to the Bipartisan Infrastructure Law, that world is closer than ever, as we build more American vehicles, train more American workers, and connect more Americans with their communities and the opportunities they offer.

I look forward to your questions today.

Thank you.

Mr. CRAWFORD. Thank you.

Administrator Hutcheson, you are recognized for 5 minutes.

**TESTIMONY OF HON. ROBIN HUTCHESON, ADMINISTRATOR,  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, U.S.  
DEPARTMENT OF TRANSPORTATION**

Ms. HUTCHESON. Thank you, Chairman Crawford, Chairman Graves, Ranking Member Larsen, and Ranking Member Holmes Norton, for your leadership on this subcommittee. And to all committee members, thank you for the opportunity to testify today and for your ongoing partnership.

When I was confirmed as Administrator of the Federal Motor Carrier Safety Administration, there was an unprecedented spotlight, not only on the trucking and motorcoach industry, but on the men and women driving that industry—the truckdrivers. Coming off the heels of the pandemic, Americans are now acutely aware of the impact of a truckdriver’s work—from the long-haul drivers delivering 75 percent of our goods annually, to the schoolbus drivers taking our children to school, and to the city drivers picking up our recycling. There’s no doubt that drivers are essential to our daily lives.

Today, I am happy to report that we have kept that spotlight shining on the industry as we carry out our mission to reduce crashes, injuries, and fatalities involving large trucks and buses. Roadway safety affects not only those whose lives were lost, but the family members and loved ones who suffer the grief of loss. We have more work to do, and we can and we must do better.

The industry is supported by the historic passage of the Bipartisan Infrastructure Law. I want to thank you all for the opportunity to work with you on this unprecedented investment, which has allowed not only FMCSA, but our partners, to carry out safety priorities to achieve our ambitious goal of zero fatalities on our Nation’s roadways and to support the goals of the Department of Transportation: safety, economic strength, equity, climate, and transformation.

We continue to work with our State and local government boots-on-the-ground partners across the country on the critical goal of improving safety, leveraging the increased resources in our formula and discretionary grants by prioritizing inspections for high-risk carriers, dedicating resources to high-crash corridors and work zones, and closing loopholes to prevent unsafe drivers and carriers from ever being on the road.

Truckdrivers are essential safety partners. Data demonstrates that the safest drivers are those that have been in the industry the longest. We need to understand: Why are drivers leaving the industry? I have ridden along with long-haul drivers in the Midwest and

municipal drivers in rural Alaska, hosted listening sessions with stakeholders, and asked these questions. We know that drivers need to feel safe, have access to training, and to be well compensated to both enter and stay within the industry. We have taken that feedback and leveraged the Bipartisan Infrastructure Law resources to assist the truck driving profession and our Nation's supply chain by creating a better, safer pipeline of drivers and improving recruitment and retention in the profession. And our assistance underscores the Department's goals, as it sits at the intersection of safety, economic strength, and equity.

We established the Bipartisan Infrastructure Law Women of Trucking Advisory Board to understand and address obstacles, including violence, harassment, and discrimination, for women entering and remaining in the industry. We have created action items to reduce those barriers, because the plain fact is, we can't leave any talent on the table. We have implemented requirements to ensure that drivers entering the industry have a minimum level of training. We use Bipartisan Infrastructure Law funding to train veterans and their families, members of underserved communities, and others in safely operating a commercial motor vehicle so they may enter the industry. We awarded Bipartisan Infrastructure Law grant funding to expedite commercial driver's license issuances. And, since 2021, States have issued over 1.3 million commercial driver's licenses. We have also launched initiatives to study compensation, predatory leasing arrangements, and detention time, and work with our departmental colleagues to address truck parking.

FMCSA has increased efforts to combat commercial operations fraud, bolstering the goals of safety and economic strength. We implemented a strategic action plan to address fraudulent household goods activities, including the launch of the Protect Your Move campaign. The campaign spanned 16 States and resulted in 700 closed complaints and a 36-percent reduction in consumer reports.

Finally, we have dedicated grant funding and resources to prevent human trafficking, underscoring our safety and equity goals, and we completed 50 outreach events this year.

With our continued partners' work, our driver focus on prevention, and your historic investment in safety, we can meet our shared goal of reducing crashes on our Nation's roadways.

Thank you so much for the opportunity to share FMCSA's work and our successes in implementing the Bipartisan Infrastructure Law.

[Ms. Hutcheson's prepared statement follows:]

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**Prepared Statement of Hon. Robin Hutcheson, Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation**

Thank you, Chairman Crawford, Chairman Graves, Ranking Member Larsen, and Ranking Member Holmes Norton for your leadership on this subcommittee. To all committee members, thank you for the opportunity to testify today and for your ongoing partnership.

When I was confirmed as Administrator of the Federal Motor Carrier Safety Administration, there was an unprecedented spotlight on not only the trucking and motorcoach industry, but the men and women driving that industry—the truck drivers. Coming off the heels of the pandemic, Americans are now acutely aware of the

impact of a truck driver's work—from the long-haul drivers delivering 75% of our goods annually, to the school bus drivers taking our children to school, and to the city drivers picking up our recycling. There's no doubt that drivers are essential to our daily lives.

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We continue to work with our State and Local Government boots on the ground partners across the country on the critical goal of improving safety, leveraging the increased resources in our formula and discretionary grants by prioritizing inspections for high-risk carriers, dedicating resources to high crash corridors and work zones, and closing loopholes to prevent unsafe drivers and carriers from ever being on the road.

Truck drivers are essential safety partners. Data demonstrates that the safest drivers are those that have been in the industry the longest. We need to understand, "why are drivers leaving the industry?" I've rode along with long-haul drivers in the Midwest and municipal drivers in rural Alaska, hosted listening sessions with stakeholders, and asked these questions. We know that drivers need to feel safe, have access to training, and to be well compensated to both enter and stay within the industry. We have taken that feedback and leveraged the Bipartisan Infrastructure Law resources to assist the truck driving profession and our Nation's supply chain by creating a better, safer pipeline of drivers and improving recruitment and retention in the profession. And, our assistance underscores the Department's goals, as it sits at the intersection of safety, economic strength, and equity.

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With our continued Partners' work, our driver focus on prevention, and your historic investment in safety, we can meet our shared goal of reducing crashes on our Nation's roadways.

Thank you for the opportunity to share FMCSA's work—and success—in implementing the historic Bipartisan Infrastructure Law.

Mr. CRAWFORD. Thank you.

Administrator Carlson, you are recognized for 5 minutes.

**TESTIMONY OF ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

Ms. CARLSON. Good morning, Chairman Crawford, Ranking Member Larsen, Ranking Member Norton, and members of the subcommittee. Thank you for inviting me to testify today on NHTSA's efforts, under the leadership of Secretary Pete Buttigieg, to fulfill the agency's important safety mission.

Every person has been touched by crashes on our Nation's roads. Many of us, me included, have lost loved ones, friends, or family to a crash. And virtually everyone knows someone who has been injured. That is why NHTSA's work touches every person in the United States every day. NHTSA is committed to making the Nation's roads safer for everyone, preventing crashes, and reducing fatalities, injuries, and the economic cost of crashes on our roads.

Today, I am pleased to share new early estimates of traffic fatalities for January through September 2023, which project that traffic fatalities declined for the sixth straight quarter. We are projecting that fatalities decreased about 4.5 percent from the same time in 2022.

While we are optimistic that we are finally seeing reversal of the record-high fatalities seen during the pandemic, this is not a cause for celebration. An estimated 19,515 people died in motor vehicle traffic crashes in the first half of 2023, a devastating loss that Secretary Buttigieg has rightly called a crisis on our roadways.

That is why NHTSA, and the whole U.S. Department of Transportation, is leaning in on the safe system approach and the Department's National Roadway Safety Strategy. The only acceptable number of fatalities is zero. Getting to zero will require consistent, dedicated focus and work from every level of government, safety advocates, and the private sector.

One way we are working toward zero fatalities is by using the remarkable new resources Congress provided NHTSA through the BIL, the Bipartisan Infrastructure Law. And thank you for increasing NHTSA's overall budget by more than 50 percent.

BIL also directs us to conduct a number of new research projects and rulemakings. NHTSA continues to work as quickly as possible on these critical projects and rules to save lives and to meet our statutory obligations.

We have issued a proposed rule to require automatic emergency braking, we call it AEB, and pedestrian AEB in new passenger cars and light trucks. With FMCSA, we have issued a proposed rule to require AEB in heavy vehicles, including tractor-trailers. When deployed, these technologies should dramatically reduce rear-end crashes, save more than 500 lives, and prevent nearly 33,000 injuries per year.

NHTSA has also proposed significant upgrades for a 5-Star Safety Ratings program—that's NCAP—and we completed a BIL directive in February 2022 when we issued our final adaptive driving beam rule.

We are also working closely with the States and especially those communities most significantly affected by traffic crashes. This includes both urban and rural areas. It is worth noting, for example,

that while 20 percent of Americans live in rural areas, they accounted for 40 percent of all traffic fatalities in 2021.

Every decision we make at NHTSA puts safety first, and this also informs our approach to emerging vehicle technologies, including automated driving systems, or ADS, and advanced driver assistance systems, or ADAS, too.

Promoting innovation while prioritizing a strong safety culture is at the heart of NHTSA's work in this rapidly evolving sector. Innovation and safety need to go hand-in-hand. A robust safety culture builds public trust in advanced technologies and automated vehicles. We are using all of our authorities and research capabilities to ensure that we advance technologies that make vehicles and roadways safer.

Finally, NHTSA takes its enforcement responsibilities very seriously. So far this year, we have opened 40 defect investigations, closed 28 investigations, and overseen more than 900 safety recalls of vehicles, car seats, tires, and other equipment. And you may have seen today's news that, after an extensive investigation into hundreds of crashes involving autopilot, Tesla has agreed to recall the more than 2 million vehicles on the roads in the United States. Our Office of Odometer Fraud has opened 13 criminal investigations this year.

NHTSA is a small agency with a big mission, and safety is at the heart of everything we do. I care very deeply about the safety of every person who uses our roads, no matter if they drive, walk, bike, ride, or roll. They all deserve to arrive home to their loved ones safe and sound at the end of every day.

I thank the committee for its support of NHTSA's lifesaving mission, and I look forward to answering your questions and continuing to work with you to save lives on America's roads. Thank you.

[Ms. Carlson's prepared statement follows:]

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**Prepared Statement of Ann Carlson, Acting Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation**

Good morning, Chairman Crawford, Ranking Member Norton, and members of the subcommittee. I am Ann Carlson, Acting Administrator of the National Highway Traffic Safety Administration. Thank you for inviting me to testify today on NHTSA's efforts, under the leadership of U.S. Transportation Secretary Pete Buttigieg, to fulfill the agency's important safety mission.

Every person has been touched by crashes on our nation's roads. Many of us have lost loved ones, friends, or family to a crash, as I have. And virtually everyone knows someone who has been injured. That's why NHTSA's work touches every person in the United States every day. NHTSA is committed to making the nation's roads safer for everyone, preventing crashes, and reducing fatalities, injuries, and the economic cost of crashes on our roads.

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I thank the committee for its support of NHTSA's lifesaving mission, and I look forward to answering your questions and continuing to work with you to save lives on America's roads.

Mr. CRAWFORD. I thank all the witnesses for their testimony. We will now begin the Member question portion of our hearing today. I will recognize myself for 5 minutes and start with Administrator Bhatt.

The Federal Highway Administration recently released a final rule to require States and metropolitan planning organizations to establish a new performance measure with declining targets for carbon dioxide emissions attributed to the National Highway System. It pursued this final rule despite the fact that Congress considered, but ultimately excluded, such a provision during IIJA negotiations.

How can you continue to claim that imposing a greenhouse gas emissions performance measure is consistent with the law or intent of Congress, given the fact that it was considered and ultimately excluded from IIJA?

Mr. BHATT. Thank you, Chairman, for the question. I want to be clear we are always consistent and follow the law. And in this case, our authority, as is laid out in the rulemaking, comes from MAP-21. We track about 17 measures, given the authority that Congress has measured. So, we are using that authority to now track envi-

ronmental sustainability of the system which is expressly called out in MAP-21.

Mr. CRAWFORD. So, not only were GHG requirements sought and rejected during IIJA negotiations, but also such a requirement was previously included and later omitted from legislation that was the basis for the Inflation Reduction Act.

If the administration believes that it has existing authority to impose this GHG requirement, then why does the administration continue to seek this authority through legislation?

Mr. BHATT. Chair, thank you for that. I wasn't part of the negotiations. I would just say, from my State experience as the secretary of transportation in Delaware and in Colorado, we dealt with two hurricanes during my time in Delaware, we dealt with fires and floods in Colorado. Tornadoes in Tennessee and Kentucky during my time there. So, I think it is pretty obvious that, from an infrastructure perspective, we are dealing with climate from infrastructure from the 20th century that is not consistent with our climate in the 21st century. So, what we are asking States to do is begin tracking—without penalizing them—but track the amount of GHG that comes from their transportation systems.

Mr. CRAWFORD. So, just to be clear, this particular point was specifically addressed in the IIJA proceedings in both the House and the Senate. It was specifically rejected as a part of the final package. And yet you are citing a previous authority under MAP-21.

So, does that mean that you can pick and choose, when we pass a new law that supersedes the old law, that you can basically pick and choose, well, we don't like this particular provision, so, we are going to go back to a previous iteration of an authorization that allows us some authority that we do like? Am I understanding that correctly?

Mr. BHATT. Chairman, just to be clear, we are following the law that was laid out in MAP-21. So, I would say that the measure that allows us to measure 17 performance measures that we have—

Mr. CRAWFORD [interrupting]. So, you are following MAP-21.

Mr. BHATT. We are using the authority granted to the Department under MAP-21.

Mr. CRAWFORD. Even though IIJA's a reauthorization. So, this looks to me like a deliberate attempt to sort of skirt the intent of IIJA, which was expressly addressed, and that particular provision was taken out and not considered as the final passage was on the floor of the House and on the floor of the Senate. But you guys have gone back to MAP-21 as your underlying authority to implement something that was expressly refused in the current authorization. So, that is what I wanted to make sure, that we understand that correctly. Let me move on to another topic.

Ms. Carlson, I have a memo here from Mr. Earl Adams, the chief counsel at FMCSA, and you were copied on that, regarding the issue of pulsating brake lights. These are an aftermarket addition to vehicles and commercial trucks.

I ask unanimous consent to enter this memo into the record. Without objection, so ordered.

[The information follows:]

**Memo Issued by the Federal Motor Carrier Safety Administration Regarding Intellistop Pulsating Brake Lamps Exemption, Submitted for the Record by Hon. Eric A. “Rick” Crawford**



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Office of Chief Counsel

1200 New Jersey Ave, SE  
Washington, DC 20590

Subject: Intellistop Pulsating Brake Lamps Exemption  
Date:  
From: Earl Adams, Jr., FMCSA Chief Counsel  
Charles J. Fromm, Charles Medalen, Arija Flowers  
FMCSA Office of Chief Counsel  
To: John Putnam, Acting General Counsel  
cc: Ann Carlson, NHTSA Chief Counsel  
Kerry Kolodziej, Sarah Sorg  
NHTSA Office of Chief Counsel

#### I. BACKGROUND

On December 14, 2020, Intellistop, Inc. submitted an exemption request to FMCSA to allow use of certain pulsating brake lamp modules on commercial motor vehicles (“CMVs”) (the “Product”). The Product operates as an after-market modification to a CMV’s factory-installed brake and marker lights causing the lights to pulse 4 times within a 2-second period when the brakes are initially applied. Thereafter, the OEM-level illumination is maintained until the brakes are released and reapplied. FMCSA reviewed Intellistop’s request, in accordance with the Agency’s legal authority under 49 U.S.C. 31315(b), and determined that the Product met the applicable legal standard, i.e., that it will “likely achieve” an equivalent or greater level of safety, and therefore may be granted.

Prior to issuing the exemption, FMCSA staff met with their NHTSA counterparts to review the application because of concern that it implicated Federal Motor Vehicle Safety Standard (“FMVSS”) No. 108 (i.e., CMVs must be equipped with “steady-burning” brake lamps). FMVSS 108 has been in place since 1967, although over the years, as discussed below, NHTSA has granted requests relating to pulsing lights in certain circumstances. Following a series of meetings between the agencies at which no agreement was reached, NHTSA’s Office of Chief Counsel submitted a memorandum to the Office of General Counsel on February 15, 2022 (NHTSA Mem.) in which NHTSA expressed concern that “FMCSA’s decisions to exempt motor carriers from important safety requirements erode the foundations of the [FMVSS] and NHTSA’s ability to enforce them.”

FMCSA has broad statutory authority as it relates to the operation of CMVs and CMV equipment. FMCSA’s authority is distinct from and complementary to NHTSA’s authority to set standards for motor vehicle manufacturers. To effectuate FMCSA’s safety mission, Congress specifically gave the Agency the authority to:

[G]rant to a *person or class of persons* an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would *likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.* (Emphasis added.)

This authority does not apply to NHTSA or to the establishment of FMVSS. FMCSA routinely exercises this authority and, when appropriate and based on available safety data, grants exemptions to motor carriers, trade associations, and even equipment manufacturers, when the exemption is likely to achieve an equivalent level of safety, and when granting exemptions on behalf of a class of motor carriers will be an efficient use of Agency resources (*see* Sec. III *infra*).

In applying this authority in the context of brake light equipment FMCSA has previously granted four exemptions for pulsing brake-activated lamps based in part

on available on-road data that indicated a 33.7% reduction in rear-end crashes with CMVs equipped with pulsing brake-activated lighting as compared to comparable vehicles with standard brake lighting.<sup>1</sup> Here, FMCSA's decision to grant the exemption was based on the data submitted by the applicant showing a significant reduction in rear end crashes and on the absence of safety problems arising from the similar exemptions granted by FMCSA.

Recognizing the potential for regulatory and enforcement inconsistencies and a desire by FMCSA not to hinder NHTSA's ability to carry out its safety mission, a joint decision was made to elevate the issue to OGC for input and guidance. The issue under consideration is therefore whether FMCSA is operating within its statutory authority by granting the exemption to Intellistop for its Product.

## II. LEGAL STANDARD FOR FMCSA EXEMPTIONS AND ITS APPLICATION TO INTELLISTOP, INC.

The key requirement under 49 U.S.C. 31315(b)(1) is that an exemption be "likely" to achieve an equivalent level of safety. That provision is the result of a narrow and deliberate grant of specific legislative authority and vests discretionary authority within FMCSA. It requires only the best judgment of FMCSA. It does not prescribe an affirmative evidentiary threshold or require a determination that a potential exemption "would achieve" an equivalent level of safety. This is a different standard from a mandatory standards rulemaking, which does require affirmative evidence that it sufficiently surpasses the status quo."

Originally, Section 206(f) of Title II of the Motor Carrier Safety Act of 1984 (Pub. L. 98-544, 98 Stat. 2832, 2935, Oct. 30, 1984) authorized the Department of Transportation to "waive, in whole or in part, application of any regulation issued under this section with respect to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles." As a result of litigation involving FHWA's issuance of such waivers, the D.C. Circuit held in *Advocates for Highway and Auto Safety v. FHWA*, 28 F.3d 1288 (D.C. Cir. 1994), that there was no empirical support for FHWA's claim that the waiver program would not adversely affect the safe operation of CMVs. In short, the D.C. Circuit held that the statute required FHWA to prove, before issuing a waiver, that there would be no adverse effect on safety. Proving a negative is impossible and the waiver program was therefore shut down, although drivers in the program with good driving records were grandfathered in. 49 CFR 391.64.

FHWA then asked Congress to write a statute that would pass judicial muster, and the result was Sec. 4007(a) of the Transportation Equity Act for the 21st Century ("TEA-21") (Pub. L. 105-178, 112 Stat. 107, 401, June 9, 1998, codified at 49 U.S.C. 31315), which inserted the "would likely" language (emphasis added). The effect of this Congressional activity is that the exemption standard, "likely achieve" an equivalent level of safety, is not as stringent as the standard NHTSA must adhere to when implementing mandatory safety regulations for manufacturers.

Safety is not diminished under section 31315(b), however, with the comparatively greater flexibility Congress granted FHWA, now FMCSA. To the contrary, the statute explicitly requires as a minimum an equivalent level of safety. Moreover, to further ensure safety, FMCSA routinely places conditions and limitations on the exemptions it grants. The exemptions are also limited to five years, which provides for additional examination based on real-world experience. TEA-21 was a clear demonstration of Congress's intent for FMCSA to make safety determinations on CMVs and CMV equipment. To be clear, vehicles must comply with FMVSS, including No. 108, at the time of manufacture, but with respect to after-market modification of that equipment, FMCSA has clear discretionary authority to determine whether such modification will "likely achieve" an equivalent level of safety on the road.

Here, as discussed in greater detail below, FMCSA believes the available data concerning the Intellistop application demonstrates that an equivalent, or greater, level of safety is *likely* to be achieved. Moreover, FMCSA is prepared to place certain limits and conditions on the exemption, including explicitly stating that the exemp-

<sup>1</sup> Groendyke Transport, Inc. Part 381 Exemption Application from 49 C.F.R. § 393.25(e) Requirement that Lamps Other than Head Lamps Be Steady Burning, page 11, submitted April 5, 2018 (hereinafter "Groendyke Application") (attached Appendix A); *See also* Groendyke Transport Amber Brake-Activated Pulsating Lamp Exemption, 84 Fed. Reg. 17910 (Apr. 26, 2019); National Tank Truck Carriers Inc.'s Rear Brake-Activated Pulsating Lamp Exemption Request, 85 Fed. Reg. 63643 (Oct. 8, 2020); Grote Rear Brake-Activated Pulsating Lamp Exemption, 85 Fed. Reg. 78918 (Dec. 7, 2020); Waste Management Rear Brake-Activated Pulsating Lamp Exemption, 87 Fed. Reg. 3166 (Jan. 20, 2022).

tion can be revoked if real-world experience demonstrates that the applicable “equivalent” level of safety cannot be maintained.<sup>2</sup> NHTSA, however, expresses concerns that the Intellistop technology could “pose a safety risk of distraction or confusion” and that there is “insufficient data” on the full safety impacts of pulsating rear lights. While NHTSA provides no data in support of the distraction or confusion risk, as discussed in the next section, there is significant on-road data available that support FMCSA’s decision to grant the exemption.

### III. SAFETY DATA SUPPORT FMCSA’S CONCLUSION THAT INTELLISTOP HAS DEMONSTRATED EQUIVALENT LEVEL OF SAFETY

The only relevant factor FMCSA must evaluate in granting an exemption is whether the proposed alternative is likely to achieve a level of safety equivalent to FMCSA’s existing regulation. FMCSA’s analysis supports a finding that Intellistop has met that standard.

FMCSA based its decision partly on data submitted by Groendyke Transport, Inc., an initial applicant for a brake-light exemption. In that application, Groendyke indicated that it had outfitted 632 of its 1440 trailers with amber brake-activated pulsating lights in addition to the steady-burning brake lights. Groendyke reported that, over a period of approximately 30 months and approximately *91 million miles of travel*, the trailers so equipped were involved in *33.7% fewer* rear-end collisions than the trailers equipped only with steady-burning brake lights.<sup>3</sup> FMCSA concluded that Groendyke’s use of pulsating lights demonstrated at least an equivalent level of safety and granted the exemption. Subsequent exemption applicants have reasonably cited Groendyke’s experience. The NHTSA Memorandum fails to mention the Groendyke data or to explain why this apparent safety achievement is not reliable.

FMCSA also took into consideration its own relevant data on rear-end crashes with CMVs and driver inattention as a major cause of crashes. Specifically, FMCSA’s Large Truck Crash Causation Study revealed that driver inattention is the leading cause of crashes for cars and the second leading cause (at 35%) for CMVs.<sup>4</sup>

The Agency also considered other sources which indicate that flashing rear lights improve safety. For example, the American Association of Motor Vehicle Administrators (AAMVA) recommends in its Motorcycle Operator Manual that motorcyclists “help others notice you by flashing your brake light before you slow down” and that “it’s a good idea to flash your brake light before you slow” if being followed too closely.<sup>5</sup> Clearly, some level of brake flashing is possible via physical application of the brakes, though perhaps not as rapid or reliable a flash sequence as with an electronic device like Intellistop’s Product. Lastly, some States<sup>6</sup> explicitly permit pulsating brake light systems like the one at issue in the Intellistop exemption request, presumably, because they believe it will not hinder safety on their roads.

Based on the plethora of data available showing pulsating brake lights are likely to contribute to a reduction in rear-end crashes, FMCSA concluded that Intellistop’s Product had demonstrated an equivalent level of safety and therefore that an exemption should be granted. Again, FMCSA is not required to demonstrate that the Product would definitely achieve an equivalent level of safety, but rather that it “would likely” do so.

NHTSA’s Memo expresses several concerns about the sufficiency of data FMCSA considers when evaluating exemptions in this case and on the prior four occasions. At its core, NHTSA makes three arguments that FMCSA has not met its burden

<sup>2</sup>In a meeting with NHTSA’s Office of Chief Counsel and management in January 2022, FMCSA suggested a 2-year exemption period for Intellistop, as a compromise to resolve the agencies’ disagreement. NHTSA declined that offer.

<sup>3</sup>See Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Groendyke Transport, Inc., 84 FR 17910–17911 (Apr. 26, 2019); Groendyke Application at 11.

<sup>4</sup>Federal Motor Carrier Safety Administration, Report to Congress on the Large Truck Crash Causation Study (Nov. 2005); available at: [https://ai.fmcsa.dot.gov/downloadFile.axd?file=LTCCS%20reportcongress\\_11\\_05.pdf](https://ai.fmcsa.dot.gov/downloadFile.axd?file=LTCCS%20reportcongress_11_05.pdf).

<sup>5</sup>AAMVA Motorcycle Operator Manual, March 2015. Available at: <https://www.aamva.org/workarea/downloadasset.aspx?id=6420>

<sup>6</sup>See TENN. CODE ANN. § 55–9–402 (b)(1) (West 2021); OR. REV. STAT. ANN. § 816.100(11) (West 2021) (permitting motorcycle brake lights to “flash intermittently, provided that the brake lights do not override the rear turn signal function”); DEL. CODE ANN. TIT. 21, § 4353(c) (West 2021) (permitting motorcycles, mopeds, and motorized scooters to use brake light systems that pulse “rapidly for no more than 5 seconds when the brake is applied, and then converts to a continuous light as a normal brake lamp until the time that the brake is released”).

to grant Intellistop's exemption: (1) there is currently "an absence of data;"<sup>7</sup> (2) FMCSA granted prior exemptions "without requiring proponents of the new signal lighting idea to demonstrate that the use of the new signal lighting idea would yield a positive safety benefit large enough to more than offset the adverse safety effects of giving up the standardized operation and meaning of signal lights;" and (3) FMCSA should have done more "to investigate if safety problems have or will occur with the greater population of motor vehicles and other roadway users."

First, as stated, it is not accurate that there is an "absence of data" related to reduction in rear-end crashes and pulsating brake lights. In objecting to FMCSA's data, NHTSA does not rely on its own research other than to claim that it is insufficient to prove out the safety benefits.<sup>8</sup> NHTSA's second argument appears to prioritize standardization over innovation unless data shows a net safety gain from the innovation. FMCSA acknowledges the need for standardization; however, as stated, the data supports the position that pulsating brake lights are an innovation which is likely to reduce rear-end crashes. Given that innovation is likely the opposite of standardization, NHTSA's view has, perhaps, the unintended consequence of making innovation more difficult.

Third, without providing any evidence, NHTSA seems to suggest that FMCSA should deny Intellistop's request because pulsating brake lights *might* cause ancillary problems elsewhere in the flow of traffic. This defies logic. NHTSA's stated *purpose* for FMVSS No. 108 is to reduce crashes, injuries, and death "by providing adequate illumination of the roadway, and by enhancing the *conspicuity* of motor vehicles on public roads so that their presence is perceived and their signals understood."<sup>9</sup> 49 C.F.R. § 571.108, S2. NHTSA worries that "[e]ven assuming *arguendo* that flashing brake lights are effective now, it is likely that they will not be effective if flashing brake lights become common." Exactly the same objection could be made to the steady-burning brake lights that NHTSA has championed for decades, and which have now "become common."

Finally, NHTSA has indicated that it disagrees with FMCSA's characterization of its research on pulsating brake lights in the draft Federal Register notice granting Intellistop's exemption request. FMCSA is prepared to discuss revisions to that language. That said, the critical fact remains that NHTSA has done no research in this area in the past decade, while FMCSA can point to Groendyke's actual road test data that demonstrates how pulsating brake lights can significantly reduce rear-end crashes.

#### IV. FMCSA HAS THE AUTHORITY TO GRANT AN EXEMPTION TO INTELLISTOP

FMCSA's exemption statute in 49 U.S.C. 31315(b)(1) refers broadly to "a person or class of persons," and thus requests for an FMCSA exemption are not limited to motor carriers only. NHTSA concedes this point in its memo,<sup>10</sup> but nevertheless, it is still worth clarifying that there is no material distinction between Intellistop and American Trucking Associations ("ATA") or another entity that may apply for an exemption on behalf of "a class."

Even if there were a meaningful distinction between Intellistop and trade groups, the same result Intellistop seeks would occur because FMCSA could grant hundreds, or thousands, of exemption applications submitted by individual motor carriers, though at excessive and unnecessary administrative burden to the Agency and unnecessary burden on the motor carrier industry. The bottom line is that Intellistop's petition is on behalf of "a class," and the exemption would be granted to the regulated community, i.e., to motor carriers using the Intellistop Product.

#### V. NHTSA'S "MAKE INOPERATIVE" STATUTE IS NOT IMPLICATED BY THE EXEMPTION

FMCSA recognizes that it cannot exempt vehicle manufacturers, distributors, dealers, or repair businesses from the requirements of FMVSS No. 108. Section 30122(b) of title 49, U.S. Code, the so-called "make inoperative" statute, provides:

(b) Prohibition.—

A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly *make inoperative* any part of a device or ele-

<sup>7</sup>NHTSA Mem. at 5.

<sup>8</sup>NHTSA "Rear signaling" research webpage; *available at*: <https://one.nhtsa.gov/Research/Human-Factors/Rear-signaling> (last visited 2/18/22).

<sup>9</sup>NHTSA Mem. at 2 (*quoting* 49 C.F.R. § 571.108, S2).

<sup>10</sup>NHTSA notes that FMCSA's regulations "appear to contemplate that the petition [for exemption] come from a motor carrier." NHTSA Mem. at 3 & nn. 8, 9. To the extent that is the case, the rule would conflict with statute, and FMCSA has therefore identified the relevant sections of 49 CFR Part 381 for revision during an upcoming technical amendment rulemaking.

ment of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

49 U.S.C. 30122(b). Motor carriers, however, are not subject to the make-inoperative prohibition in 30122, nor does the prohibition apply to individual vehicle owners who install equipment on their own vehicles.<sup>11</sup> NHTSA has repeatedly affirmed this position in its own legal interpretations.

FMCSA recognizes that there could be confusion about the persons and vehicle modifications covered under the exemption, versus persons prohibited under section 30122(b) from installing the Intellistop Product. To avoid this confusion, and also to prevent a covered entity from making the modification, FMCSA plans to issue the exemption subject to a requirement to include on the Product a prohibition on their use by distributors, dealers, or repair shops, citing the “make-inoperative” provision in 49 U.S.C. § 30122. As stated, FMCSA routinely includes conditions and restrictions when granting an exemption.

#### VI. GRANTING THE EXEMPTION WILL NOT FRUSTRATE NHTSA’S ABILITY TO ENFORCE THE FMVSS

FMCSA appreciates the challenge that NHTSA faces concerning a pending enforcement investigation of Safety First, which is on hold pending resolution of the Intellistop matter, and uncertainty on how to proceed with enforcement work relating to potential violations of the FMVSS. First, however, FMCSA’s authority only extends to the motor carrier community, not to non-CMV passenger vehicles. A quick Amazon search reveals many flashing brake light modules, many of which appear targeted at non-CMV purchasers. If NHTSA’s intent is to eliminate unauthorized installation of such products, it could focus on any number of cases against distributors, dealers, rental companies and repair businesses. In addition, FMCSA believes an exemption can be crafted that will aid NHTSA and FMCSA in gathering safety data, as well as enhancing NHTSA’s enforcement and potential defect recall duties, by imposing appropriate conditions on Intellistop within the exemption. FMCSA looks forward to discussions with NHTSA on how the agencies can work together to augment and enhance effectiveness in pursuit of safety on the nation’s roadways.

#### VII. FMCSA WILL FULLY ADDRESS COMMENTS IN DOCKET

NHTSA asserted that FMCSA did not sufficiently address concerns raised in certain comments to the public docket.<sup>12</sup> FMCSA acknowledges this critique and will re-review all submitted comments to determine if additional language is needed in the decision document. One docket comment, from the Commercial Vehicle Safety Alliance (CVSA), deserves attention here. It is addressed below.

It is true that CVSA *agreed* in comments to the docket that data supported the use of amber brake-activated pulsating lights, but *not* red brake-activated pulsating lights which are used by Intellistop’s modification. CVSA’s concern was that the blinking red light could confuse other motorists, a view shared by NHTSA. CVSA, like NHTSA, did not provide any data to support this concern. Intellistop’s pulsating rear brake lights do not exceed the brightness level established for rear lights and are unlikely to be confused with the exceptionally bright (often strobe) lights mounted on emergency equipment and visible from *all* directions. FMCSA is not aware of data that supports this concern or that could alter the analysis on whether the Intellistop Product would “*likely* achieve” an equivalent level of safety. Nevertheless, FMCSA did fail to address the comment in the draft notice granting the Intellistop exemption; that oversight will be corrected.

#### VIII. THE WASTE MANAGEMENT EXEMPTION

FMCSA appreciates NHTSA’s surprise concerning the granting of the Waste Management exemption. At the time, FMCSA believed that the Waste Management ex-

<sup>11</sup>See Interpretation Letter to Mr. and Mrs. Samuel Yeager (Nov. 15, 2006), *available at*: <https://www.nhtsa.gov/interpretations/06-006577drn>; Interpretation Letter to A.F. Zang, III (May 18, 1993), *available at*: <https://www.nhtsa.gov/interpretations/nht93-351>. See also Interpretation Letter to Charles Jennings (Aug. 2, 1993), *available at*: <https://www.nhtsa.gov/interpretations/nht93-543>.

<sup>12</sup>NHTSA’s Mem. at 6.

emption was sufficiently similar to previous exemptions, in that it did not implicate concerns NHTSA had flagged in interagency discussions with regard to Intellistop. At the same time, it was not until the meeting on January 26, 2022, that FMCSA understood NHTSA's larger opposition to how the Agency has been applying its exemption authority in certain instances. As noted above, FMCSA routinely reaches out to NHTSA where there may be concerns about overlapping authority, including providing advance copies of relevant exemptions. FMCSA commits to working with NHTSA and other sister agencies to improve communication.

#### IX. CONTRADICTORY NHTSA INTERPRETATIONS REGARDING FMVSS NO. 108 AND AGENCY AUTHORITIES

In its Memorandum, NHTSA argues it is imperative that uniform lamp standards be rigorously maintained to protect public safety.<sup>13</sup> Yet NHTSA has previously issued contradictory statements in granting manufacturers' petitions for exemptions from recall obligations based on "inconsequential non-compliance" with FMVSS No. 108. In granting such a petition for *inconsequential* non-compliance from General Motors Corporation (GM), NHTSA stated:

We can foresee no negative effects on motor vehicle safety if a vehicle's CHMSL<sup>14</sup> is briefly illuminated as described upon activation of the hazard warning lamps. The intended use of a hazard warning lamp and the momentary activation of a CHMSL do not provide a conflicting message. The illumination of the CHMSL is intended to signify that the vehicles brakes are being applied and that the vehicle might be decelerating. Hazard [flashing] warning lamps are intended as a more general message to nearby drivers that extra attention should be given to the vehicle. A brief illumination of the CHMSL while activating the hazard warning lamps *would not confuse the intended general message*, nor would the brief illumination in the absence of the other brake lamps cause confusion that the brakes were unintentionally applied.<sup>15</sup>

In a legal interpretation regarding a new "low beam" product, NHTSA also noted in its response that FMVSS No. 108 "requires headlamps to be steady-burning in use, though means may be provided to flash them on and off automatically for signaling purposes."<sup>16</sup> Presumably, this hypothetical flashing of low beam lights for signaling purposes was to gain the attention of other drivers and make them aware of a situation requiring their attention. NHTSA did not indicate any concern that the flashing of *forward-facing* headlamps could cause confusion that an emergency vehicle was approaching from behind.

Finally, in a separate legal interpretation, issued in response to a Congressional inquiry on behalf of a constituent concerned with tire tread requirements for CMVs, NHTSA "was pleased to explain the laws and regulations [NHTSA] administer[s]" as such:

NHTSA's safety standards do not, however, apply to used vehicles or equipment. . . . [but] must have complied with the safety standards at the time of its manufacture. . . . Also, the Office of Motor Carriers within the Federal Highway Administration<sup>17</sup> has the authority to regulate commercial vehicles and equipment operated in interstate commerce.<sup>18</sup>

NHTSA was very clear in that Congressional correspondence that the FHWA office (the precursor to FMCSA) held "the authority to regulate commercial vehicles and equipment."

#### X. CONCLUSION

The standard for FMCSA's exemption authority is broad and does not require an affirmative showing that a potential exemption "*would achieve*" an equivalent level of safety, only that an equivalent, or greater, level of safety is *likely* to be achieved if the exemption is granted. Second, data drives FMCSA's review process. In this

<sup>13</sup>NHTSA Mem. at 1, 7.

<sup>14</sup>"CHMSL" refers to the center high-mounted stop lamp.

<sup>15</sup>General Motors Corporation; Grant of Application for Decision of Inconsequential Non-compliance, 66 Fed. Reg. 32871, 32872 (June 18, 2001).

<sup>16</sup>See Interpretation Letter to Charles Jennings (Aug. 2, 1993), *available at*: <https://www.nhtsa.gov/interpretations/nht93-543>.

<sup>17</sup>FMCSA's precursor office prior to becoming a separate agency.

<sup>18</sup>Interpretation to Sen. Bob Graham regarding Howard Levy, Vice-President, Used Tire International (Jan. 17, 1995); *available at*: <https://www.nhtsa.gov/interpretations/nht95-128>.



case, the available data indicate that the Product will not result in an adverse impact on safety, but rather will help reduce rear-end crashes. Third, FMCSA recognizes the apparent conflicting authority with NHTSA but believes that any conflict can be reconciled by placing conditions and limitations on the exemption, as discussed above. In the end, FMCSA's safety mission, and its legal authority over the commercial motor vehicle industry, warrant granting Intellistop's request for exemption on behalf of motor carriers.

Mr. CRAWFORD. The memo is about granting waivers for the use of pulsating brake lights on commercial trucks. The memo says, quote, "The available data indicate that the Product will not result in an adverse impact on safety, but rather will help reduce rear-end crashes," end quote. It goes on to say that, quote, "An equivalent, or greater, level of safety is *likely* to be achieved..." end quote. Finally, the memo makes clear that, within FMCSA's safety mission and available data, that a waiver is warranted for the use of pulsating brake lights.

My question for you, Ms. Carlson, is, since FMCSA sees this issue with some clarity, believes in the general safety of pulsating brake lights, and mentioned in the memo that it was willing to work with NHTSA, why is NHTSA preventing the industry from receiving a waiver to install pulsating brake lights on trucks which would likely prevent rear-end accidents and make our roads safer?

Ms. CARLSON. I appreciate the question, Chairman. Let me start by saying that NHTSA has a Federal Motor Vehicle Safety Standard 108 that requires steady burning lights. And that is a requirement that needs to be followed by manufacturers and dealers. It does not prevent the manufacture of pulsating lights, but it does prevent their installation by our OEMs and by dealers—

Mr. CRAWFORD [interrupting]. So, you can make them, you just can't use them.

Ms. CARLSON. Individuals can install them on their vehicles as long as it is consistent with State law, but they cannot be installed by manufacturers or by dealers because that would violate a rule-making that was based on a safety conclusion that steady burning lights provide a steady and consistent signal to drivers so that they know when a vehicle is stopped.

Mr. CRAWFORD. OK. I have run out time. But despite the fact that the data that you are aware of and that exists, that you are still saying that that can't happen. So, again, not necessarily demonstrating great commitment to safety on the highways with that ruling.

I now turn to Ms. Norton for 5 minutes.

Ms. NORTON. This question is for Mr. Bhatt and Ms. Carlson. Our Nation is experiencing an epidemic of traffic fatalities, including alarming increases in pedestrian and bicyclist fatalities. What does the Biden administration believe is causing this spike in fatalities, and what concrete actions is the Department taking to save lives?

Mr. Bhatt and Ms. Carlson.

Mr. BHATT. Thank you, Ranking Member Norton. One of the things I am most proud of in my career was, when I was with the Delaware Department of Transportation, we went from 23rd to 4th in bicycle-friendly States, because we recognize that active trans-

portation is a critical part of our transportation network and making sure that people can do it safely.

When you look into the data—and this is what Secretary Buttigieg has asked us to do under the NRSS, is to look at a safe system approach. So, there's speeds, there's distracted driving, there's infrastructure. One of our 28 proven safety countermeasures at FHWA are protected bike lanes. We are also working with States to identify vulnerable road user studies in their States, and so, we look forward to working with them with that data.

And I will turn it over to Acting Administrator Carlson.

Ms. CARLSON. Thank you, Congresswoman Norton. Let me start answering your question about what do we think is the cause by providing some data and some potential explanations.

So, one of the things we know is that 70 percent of pedestrians are killed at night, and most of them are adults. Pedestrian fatalities among children have actually declined pretty dramatically. We also know that most of those are not at intersections. And as my colleague Shailen said, one of the things that we are really focused on is infrastructure, sidewalks. For example, lighting could be a huge improvement.

We also know that people are speeding. And, obviously, if you are hit at higher speeds, you are much less likely to survive a pedestrian crash. And drivers are driving distracted much more frequently. So, we are working on all of those things. But let me give you two examples of things that NHTSA is doing to address pedestrian fatalities.

One of the most important is our proposed rulemaking for pedestrian automatic emergency braking that would provide vehicles with technology that would identify a pedestrian that the driver didn't have time to see, and would also work at night. It would be an extraordinary advancement in safety technology, and we project it would save hundreds of lives and prevent thousands of injuries.

In addition, we have both a proposed rulemaking and a proposal in our New Car Assessment Program, that's the 5-Star Safety Ratings program, to add pedestrian protection to vehicles in the event that a pedestrian is actually hit. It is a gruesome thought, but actually vehicles can be made to absorb more energy and, therefore, lessen the injuries to both legs and to heads as a result of crashes.

And then, of course, working with our State partners who receive highway safety grants. DC got a little over \$5 million, for example, to address the problematic areas where pedestrian fatalities are occurring. Using data to figure out where are the worst intersections. Are there lighting problems? Are there infrastructure problems? And then using our safe system approach to try to tackle that problem with every single tool we have.

Ms. NORTON. Ms. Hutcheson, one area of concern I hear from my constituents is household goods moving scams. Far too often, people going through a move are taken advantage of and have their property held hostage or lost forever. This can be devastating as it can include the loss of irreplaceable family heirlooms.

The FAST Act created the Household Goods Consumer Protection Working Group within the Federal Motor Carrier Safety Administration. I plan to introduce a bill in the new year that will grant

the Federal Motor Carrier Safety Administration additional authorities to conduct household goods enforcement.

Can you describe the agency's ongoing efforts to address moving scams and educate consumers who are looking to move?

Ms. HUTCHESON. Thank you, Ranking Member Norton, for the opportunity to talk about this. I have heard gut-wrenching stories from people who have lost everything in household moving scams. People lose their whole lives or memories. It is a deeply personal issue.

At the beginning of this year, we launched a strategic action plan. Part of that is Operation Protect Your Move. That was rolled out this spring. We have increased awareness. We have stepped up our investigations, completing more and more as we go. And as a result, we have closed 700 complaints, and we have had a 36-percent reduction in the number of consumer complaints coming in. We are not going to stop until we bring these numbers down of the complaints that come in.

And just for anyone who has suffered from this or plans to move, please do check our Protect Your Move website where you can find information on how to move your goods yourselves safely without experiencing this fraud.

Ms. NORTON. Thank you. I yield back.

Mr. CRAWFORD. The gentlewoman yields.

Mr. Bost.

Mr. BOST. Thank you, Mr. Chairman.

Administrator Hutcheson, the FMCSA has proposed a rule to limit the speed of commercial vehicles throughout the agency proposal. You referred to the research of Dr. Steven Johnson at the University of Arkansas. However, Dr. Johnson's conclusion seemed to be a little different than yours.

His research shows that when the speed of a vehicle is different from the average speed of other vehicles, intersection between vehicles increase and so does the chance for an accident. In fact, the chance is increased to 220 percent higher if the vehicle is going 10 miles per hour slower than the speed limit. Dr. Johnson even said if speed limit regulation is implemented, it is important to note that it will occur on the basis of supported opinion rather than the definitive value, valid and reliable uses of data.

Has your agency considered any research to determine what types of crashes would be increased when the agency creates or expands a speed limit or mandate?

Ms. HUTCHESON. Thank you, Representative, for raising this important issue. The National Roadway Safety Strategy identifies speed as something that needs to be addressed. And, in fact, in truck crashes, speed is one of the leading reasons why there are fatalities on our highways, very often including drivers themselves.

The NTSB has determined that speed was a contributing factor in not just one, but many, but chief among them a tragic crash in Pennsylvania where 4 people lost their lives and 50 people were injured.

As I believe you are aware, we are working through a rule-making process. We have received numerous comments and have heard about this research about what is called a speed differential. So, I thank you for raising it.

The regulatory impact—we have not yet published a notice of proposed rulemaking. It is still in agency review. And the regulatory impact analysis will consider the research and this issue specifically.

Mr. BOST. OK. Well, let me tell you the advantage of having a representative form of Government. Many of us were actually in other industries before we came here. I grew up in the trucking business, know it well. I know there is one other Member that also—but he is not here today—did the same thing.

I have two questions that are of concern, and I am just going to express them, because I know you have probably never driven a tractor-trailer up and down the highway. Now, that's just an assumption. Maybe you have. But there are two problems. One, in the State of Illinois, when I was in State legislature, the problem was is that we had one limit for trucks and one limit for cars. And we did discover, through our research, that it actually caused more wrecks than it would if—just slow up traffic would have worked.

Now, the other problem that you have is, if you have a driver who is a skilled driver, and all of a sudden he is going to get in a situation, and you have now limited his ability to use speed to react to get away and protect while driving a vehicle, you have changed the vehicle dynamics, and, therefore, you are endangering people rather than saving them by making it to where you have a limiter that doesn't allow a professional driver to make decisions to try to either speed up to get out of the way or speed up to go around a situation that might be occurring in front of them. So, that is something I think you should consider as well.

Now, I've got a second question that I want to ask because it's a completely different question. OK. I have heard a lot of motor carriers right now that freight fraud is involved really bad with scammers. And let me tell you how this works. We have people who are out there that are claiming to be brokers. Truckdrivers are out there trying to find loads or their companies are trying to find loads for them. They use this broker. The broker all of a sudden comes in and gets in the middle of the supply chain issue and they broker the load. Now, by the time that driver then gets back in or that company gets that load back in and ready to be paid for, they contact that particular company, and they are no longer in existence or you can no longer find them.

Is there anything that your agency is doing and can be dealing with as far as the fraud that is occurring out there? Because we are losing a tremendous amount of smaller companies and/or owner-operators. Because it is one thing if a great big company takes a \$2,000 loss or \$5,000 loss, but the smaller companies can't take that.

Ms. HUTCHESON. Representative, I appreciate your experience in the industry. We unequivocally share your concerns about the impact of fraud on the industry and specifically broker fraud. We are taking steps.

First and foremost, we issued a financial responsibility rule that will ensure security limits for brokers and freight forwarders is increased to \$75,000. We know that's not enough. We are also taking steps to improve transparency in transactions. We have been lis-

tening to our stakeholders, working very closely with OOIDA, TAA, and others.

Thank you for——

Mr. BOST [interrupting]. Thank you.

My time has expired, and I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. Larsen.

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

First I want to say, for fear of being maybe criticized later, we are nearly an hour in this conversation, and no one yet has said, stop spending money of the BIL and creating jobs in my district. So, good job with the U.S. DOT with BIL implementation and creating jobs, getting those benefits and projects out in the district.

Now having said that, I have a few questions. First off for Ms. Carlson. You mentioned in your testimony regarding the Tesla recall and Autosteer. Can you briefly describe the actions that your agency took leading up to the filing of the recall notice, please?

Microphone, please.

Ms. CARLSON. Thank you. Yes, I appreciate the question. Let me start by acknowledging that a number of people have died in Tesla crashes where autopilot was on. And frequently those crashes involved what appeared to be a driver not realizing that there was an obstacle that appeared kind of suddenly in front of it. And when I kept hearing about Tesla crashes, my immediate response is we have to do something about this.

So, in August of 2021, the agency launched an investigation. And I want to just give you a sense for the complexity of the investigation.

Mr. LARSEN OF WASHINGTON. I have got two more questions for others.

Ms. CARLSON. OK. I will be quick.

Mr. LARSEN OF WASHINGTON. So, if you can be quick, yes.

Ms. CARLSON. OK. Thank you.

So, we examined over 900 crashes, 322 of those involved frontal impact crashes and things where autopilot was engaged. And one of the things we determined is that drivers were not always paying attention when that system was on. And so, Tesla has agreed to the recall. We appreciate that they have agreed to it.

And let me just—I will just read what it says, and then I will stop. It says that its software system may not be sufficient to prevent driver misuse, and so, they will be issuing remedies to address that problem, the problem where the interaction between the system and the driver is not sufficiently attuned to the fact that the driver could just tune out when he or she is driving.

Mr. LARSEN OF WASHINGTON. All right. Thanks.

It has much broader implications beyond what Tesla is doing, as well, in the future when it comes to using this technology for any vehicle——

Ms. CARLSON [interposing]. Absolutely.

Mr. LARSEN OF WASHINGTON [continuing]. Passenger or otherwise.

Ms. CARLSON. Absolutely.

Mr. LARSEN OF WASHINGTON. Thanks.

Mr. Bhatt, the BIL takes climate change seriously. It provides \$7½ billion for EV charging infrastructure, but the build-out has been, frankly, pretty slow on the Federal dollars for EV chargers.

Can you provide an update on the rollout of this funding and where are we going to be going to move this rollout on EV charging more quickly?

Mr. BHATT. Thank you, Ranking Member Larsen. Yes, absolutely. I would say that we have taken 2 years to stand up the program, but we know that Ohio opened up the first federally funded electric charger last week. New York is going to join later this week. Maine, Vermont, Pennsylvania, and Hawaii are coming soon. So, I would say that we are expecting thousands of chargers to be coming online.

Mr. LARSEN OF WASHINGTON. So, why the pace—we didn't expect it on day one, but why day 730?

Mr. BHATT. There is \$1.2 trillion in the Bipartisan Infrastructure Law. One in four of those dollars flows through Federal Highways. And so, of that \$7.5 billion on NEVI, we have had to write rules, work with States, work with the private sector, set up a joint office with DOE so we could do this right the first time, and that's what we are doing.

Mr. LARSEN OF WASHINGTON. All right. We will need to continue to watch that very closely.

Ms. Fernandez, we talked in the past about ferries, electric ferries, in fact, at the groundbreaking or some event in Lynnwood, Washington, recently. You have awarded funds for seven projects so far for electric or low-emitting ferries. We have the largest system in the country measured by people moved and vehicles moved.

What other kind of interests are you seeing in that program, and are there some lessons learned or policy challenges that we need to consider as we look forward?

Ms. FERNANDEZ. Thank you very much for your question, Ranking Member Larsen. Our ferry programs are critical to coastal communities. And the new programs that were created in the Bipartisan Infrastructure Law really funded around the low-emitting electric ferry will really help improve and also help expand service while supporting the environmental goals of the communities.

The Low-Emitting Ferry Program, we stood up that program very quickly. Just last week, I issued the release of grant awards for the second round of \$220 million to 13 projects in 8 States, and those dollars are going to start a revolution, a transformation of the ferry program. As a matter of fact, the first U.S. electric ferry is being built right now in the State of Rhode Island, in Providence, by a company, Senesco, and that will be the beginning of manufacturing on low-emitting ferries that will then help transit agencies that, in fact, have ferries as part of their mobility option to be able to get those out and deployed.

Mr. LARSEN OF WASHINGTON. Great. Thank you.

And, Mr. Chair, I would just note, it might be the first in the U.S., but it is not first in the world. There are plenty of electric ferries being operated around the country. This isn't science fiction. It is real, and it is about time the U.S. caught up with it.

So, with that, I yield back.

Mr. CRAWFORD. The gentleman yields back.

Mr. Johnson.

Mr. JOHNSON OF SOUTH DAKOTA. Thank you.

Of course, there are a number of important investments being made as a part of the infrastructure package. We do want to make sure that those investments don't strengthen our adversaries. Of course, you all are familiar with lidar. It's a technology that uses laser light to map our surroundings. And we deploy this stuff in increasing measure across our transportation infrastructure, so, airports, ports, intersections, of course, in autonomous vehicles.

And as we make these massive investments in deploying this important technology, of course, we want to make sure we aren't creating vulnerabilities for the Chinese Communist Party. Most Americans probably don't realize the extent to which the Chinese Communist Party has used a number of tactics to be a major market leader in this technology. They have identified some chokepoints that they have wanted to own, which gives them a certain amount of coercive power over this infrastructure.

And it is not just me that shares these concerns. In fact, a recent Congressional Research Service study indicated that yes, indeed, the Chinese Communist Party could use this exquisite mapping capability to be able to gain some additional power and exploit these vulnerabilities.

That's one reason why those of us on the Select Committee on the Strategic Competition between the United States and the Chinese Communist Party yesterday morning passed a report that called for us to try to derisk our exposure, our vulnerabilities to this PRC-used and PRC-dominated lidar technology. Of course, we want the technology. We just want to make sure we are investing in that technology in a way that does not strengthen our adversaries.

So, for the Under Secretary, for the Administrator, any thoughts on what DOT is doing to educate its team and contractors about the fact that we don't want to give the PRC any more coercive power over our country in how we deploy lidar?

Mr. MONJE. Thank you, Congressman. And I would love to turn it over to Acting Administrator Carlson in a moment, but cybersecurity, and particularly in concerns with the People's Republic of China, is spot on. We are in constant communication with the national security team, with the Treasury Department as they do CFIUS analyses of different transactions to make sure that, as we are deploying this technology on our Nation's roadways, that they are resilient against attacks, which we see thousands and thousands a day. It is not only lidar. It is also the PNT, the signal that we get from space.

But we are, again, in constant communication. And Secretary Buttigieg has directed our department, led by the research team under my organization, our OCIO, our chief information officer, to make sure that we are tracking threats and helping our OEM partners do the same.

Mr. JOHNSON OF SOUTH DAKOTA. So, let's try to get specific. And just in case people think that either the Under Secretary or I are fearmongering, I mean, here is the independent, nonpartisan statement from the CRS: China could use data compiled by PRC lidar

systems to acquire sensitive information or exquisite mapping of U.S. infrastructure.

And we are really talking about exquisite. I mean, you think about every object in the transportation system, its location, its speed, how all of these things fit together, I mean, what unbelievably detailed and, frankly, dangerous information about our transportation systems.

So, are there specific actions that our Government is taking to make sure that we aren't just buying technology managed by the PRC and their partners?

Mr. MONJE. I think Ann wants to pipe in.

Ms. CARLSON. I share your concern. And NHTSA has some authority, although I will say that there is more authority in other agencies across the Federal Government.

One thing that we do is we have a list that has been provided to us by other agencies of the Federal Government that identifies those Chinese companies and other companies around the world that pose a security risk, and we prevent vehicles that have technology from those companies from coming into the country. We have a relationship with the U.S. Customs Service and try to ensure that.

We also work very closely with our automotive partners on cybersecurity. We have something called the Auto-ISAC, which is really a model for industrywide cooperation in trying to reduce cybersecurity threats. I have spoken at the last two Auto-ISAC national meetings in part to convey the importance of this issue. And we have been working closely with the Department of Commerce on these questions as well.

Again, we share your concerns. These are serious ones.

Mr. JOHNSON OF SOUTH DAKOTA. Mr. Chairman, as I am out of time, I would just note that I think that information is heartening from the automotive perspective. I do think ports, airports, we have got a lot of other work to do, and I look forward to working with our panelists on that.

And I yield.

Mr. CRAWFORD. The gentleman yields.

Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chair.

Thank you to our witnesses this morning for their testimony highlighting the critical work made possible by the Infrastructure Investment and Jobs Act.

The impacts of IIJA in New Jersey's infrastructure cannot be understated. In November, the FTA announced over \$4 billion in grants for passenger rail in New Jersey's Eighth Congressional District through a program authorized and funded by IIJA. These funds will allow key parts of the Gateway Program to advance. I am excited to see these projects benefit our district. I look forward to working with our witnesses today on further implementation of this critical legislation.

Administrator Fernandez, earlier this year, I led a 114-Member bipartisan letter urging the FTA to take action to protect public transit operators from assault. Your testimony noted that the FTA will soon be announcing a general directive on required actions re-



garding assaults on transit workers. I am encouraged to see the FTA engage on this issue.

Administrator Fernandez, can you speak more on this general directive and how it will aim to protect transit workers from assault?

Ms. FERNANDEZ. Representative Menendez, thank you so very much for that question.

Let me just begin by saying that the attack on operators is unexcusable, because these are the same individuals that were celebrated for being heroes during the pandemic. They went to work so that people could get to their jobs, essential workers.

Congress directed the Federal Transit Administration to create and to publish a rule on transit worker safety. From the first day of this administration, we have been on tap on moving forward with getting a publication on the way. But I will start by saying that Secretary Buttigieg met with operators his first week on the job, and I have met not only with the operators, I have met with the labor union and with transit agencies. At the Federal Transit Administration, we take this very seriously, and not only do we have a rule underway, but we are taking full advantage of the existing authorities that we have so that we can direct transit agencies to implement safety for their operators, and we will be holding them accountable to do just that.

Mr. MENENDEZ. And how can we here in Congress be supportive in the FTA's efforts that you just discussed to protect transit workers, riders, pedestrians, and other roadway users?

Ms. FERNANDEZ. Representative, again, thanks for that question. I think the beginning was, of course, all with the funding. In the Bipartisan Infrastructure Law there is funding that allows transit agencies to use the formula dollars for introducing security measures into their system. They can hire security officers. They can hire personnel. They can implement technology on the security side. In addition to that, they can do the training necessary.

At the Federal Transit Administration, we have implemented an initiative called the Transit Safety and Crime Prevention Initiative. In addition to that, we have been holding a series of trainings on deescalation. And we have also invested funds in developing a prototype to protect operators in the driver's cab.

So, what we are doing is a holistic approach. We know that there is more to be done, but transit agencies have a responsibility to protect the people that work for them. Also, as they protect those individuals, they are protecting the public that is using the system.

Mr. MENENDEZ. Absolutely. And we look forward to partnering with you when advancing those initiatives.

Under Secretary Monje, State departments of transportation are working to address a wide variety of issues, from road maintenance to tolling. In my district in New Jersey, we have seen reports of toll evasion through fraudulent license plates. Several States have acted to address this issue by passing laws to crack down on toll evaders.

One barrier to addressing fare evasion is a lack of updated information technology at DMVs. For example, the State of New York can suspend registration from habitual toll violators, but an outside entity had to help their DMVs create a new IT software.

Under Secretary, how is the Department of Transportation helping States modernize their DMVs?

Mr. MONJE. Thank you so much, Congressman. And I would love to turn it over actually to my colleagues, if it is OK with you, who more directly work with DMVs, perhaps Robin Hutcherson.

Mr. MENENDEZ. Sure.

Mr. MONJE. But one of the really wonderful things that Congress did in a bipartisan way is give us money in order to partner with our States to up their game. But perhaps Administrator Hutcherson could answer better than I can.

Ms. HUTCHESON. Thank you, Representative.

Mr. CRAWFORD. Hit your mic. A quick answer, please.

Ms. HUTCHESON. Thank you, Representative. And thank you to my colleague, Mr. Monje, for passing it to me.

We have issued a tremendous amount of grant money to States through the Bipartisan Infrastructure Law. While our lens is commercial motor vehicles, I can say that these grants have been used by States to expedite issuance of CDLs. Of course, that is our lens, but also to improve their IT systems, to increase accuracy and timeliness of traffic convictions, suspensions, and disqualifying information that is for CDL holders. And this ultimately will help keep all drivers safe on our Nation's roadways.

Mr. MENENDEZ. I appreciate that. We saw it in my time at the port authority. This is a big issue, especially as we look at funding for State department of transportation agencies.

Thank you. I yield back.

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

Ms. Maloy.

Ms. MALOY. My first question is for Mr. Bhatt, and it concerns project delivery times. In your written testimony, you said that time is money and that's why you are committed to helping deliver projects in a timely manner. I am hearing from people in my district that projects are getting more and more expensive while they are waiting for permitting.

What are you doing to streamline permitting so that projects don't get prohibitively expensive between the time the grant is awarded and when it can be built?

Mr. BHATT. Thank you, Representative Maloy. And time is money and, absolutely, we want to get these projects underway and under construction. On the permitting side, Federal Highways is not a permitting agency, but we work very closely with the permitting agencies and the State sponsors so that we can quickly turn any permitting needs that are in place to get those permits issued and get those projects under construction.

Ms. MALOY. OK. Thank you.

Ms. Fernandez, I have a similar question for you. I am hearing that the NEPA process is slowing down the grants even with the increased funding from IIJA. What is your agency doing to make sure that these permitting processes are moving so that projects can be built before they become too expensive?

Ms. FERNANDEZ. Thank you very much for your question, Representative Maloy.

The Federal Transit Administration is working very closely with every single one of our project sponsors and those who intend to

request Federal funding for their projects. One of the areas that I would like to emphasize is that 99 percent of the projects that come before us receive a categorical exclusion. That is, these are projects that are not affecting the human environment and, therefore, are not subject to going through an environmental assessment process. That helps expedite, get projects out sooner.

We are also working across the Department of Transportation on the permitting action plan so that we can get all projects—many of our projects have interfaces with other modes of transportation, and getting all of those projects out on time.

Ms. MALOY. Thank you.

OK. Last question, Ms. Hutcheson. The Safe Driver Apprenticeship Program, I am hearing that there are requirements that are being required by the agency that aren't in IIJA, and it is making it difficult to fill all of the slots.

What are you doing to address that? Are you considering removing the additional requirements?

Ms. HUTCHESON. Thank you, Representative Maloy, for the question. Our responsibility is to safety first. We have been rolling out the Safe Driver Apprenticeship Program as directed by Congress, and we are in the process of building the ranks of drivers in order to complete the 200 drivers we need to have a statistically significant study.

We have included safety requirements as directed by Congress. Congress gave us authority for the Department of Transportation to add safety measures as necessary to ensure safety, and we have done that.

We continue to market, communicate, reach out, and build these ranks, and we look forward to reporting back to you on a successful program soon.

Ms. MALOY. OK. I look forward to the report.

Thank you. I yield back.

Mr. CRAWFORD. The gentlewoman yields.

Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chair and Ranking Member Norton, for holding this hearing. It is important that the public knows about what we passed and how it is being implemented.

Since the passage of the historic Bipartisan Infrastructure Law, the Department of Transportation announced grants on their 103 programs for roads, bridges, rail, buses, ferries, ports, pipelines, and more, all the type of activities that the Government is supposed to do, basic fundamentals in infrastructure, things the public appreciates and utilizes and that are bipartisan in nature.

There are projects in every congressional district across the country, including the districts of Members who even voted against this bill. So far, \$6.2 billion in funding has been announced and is headed to Tennessee with over 266 specific projects identified for funding. In my district in 2023, we received \$140 million in Federal-aid highway funds, which is supporting 47 new projects, in addition to the 48 projects from 2022. We appreciate that.

Since the passage of the bill, we have received several discretionary grants as well. Ms. Fernandez was with us when we announced \$76.3 million in FTA grants to the Memphis Area Transit Authority, MATA. We had \$38.2 million in RAISE grants for

MATA's Crosstown Corridor project and Shelby County's Project ELBOW, \$14.8 million for the Memphis Airport for the terminal expansion program, and \$640,000 for Safe Streets for All grants in the city of Memphis. So, it is important what it has done for my district and districts all over the country.

To Mr.—is it Monaje?

Mr. MONJE. Monje. Thank you for asking.

Mr. COHEN. Monje. I am sorry. Thank you, sir.

Speaking of my district, I would like to make you aware of a program that Chairman Crawford somehow or another did not mention. It's an application for a grant under the Bridge Investment Program.

Mr. CRAWFORD. The gentleman's time is expired.

[Laughter.]

Mr. COHEN. He wants this as much as I do.

It is an \$800 million application jointly submitted by Tennessee and Arkansas to replace the I-55 bridge with a new bridge called America's River Crossing. Four hundred million dollars would come from this grant and \$200 million from the Department of Transportation in Arkansas and \$200 million from Tennessee. That bridge crosses the Mississippi River, lots of I-40 traffic, I-55 traffic throughout the country. This is an important new bridge. The old bridge was built in 1949, not an old time for a person, but an old time for a bridge.

It's important for the Port of Memphis, which is the fifth largest inland port in the United States as well. It's not seismically safe, and we need to have a resilient bridge that does that. So, we would appreciate the Department's due consideration when reviewing this grant application.

Are you familiar with that grant application?

Mr. MONJE. Yes, sir. And the great thing about the bridge program is that there are statutory minimums for each State. And Shailen has met with Tennessee DOT on this project. We are able to take these bottlenecks and move them from the wish list to the construction schedule.

Mr. COHEN. Well, it would be important for all the world. As I mentioned to Secretary Buttigieg, the mantra should be, what is good for Memphis is good for the country.

Mr. MONJE. Yes, sir.

Mr. COHEN. And this is certainly good for the—we fly everything in and out of the airport on FedEx, and then you come across the I-40 bridge or the I-55 bridge and you get all the truck transportation and commerce.

Ms. Fernandez, thank you again. It's good to see you again. I know MATA is appreciative of what we had in the past. And as you know, transit agencies in most urbanized areas like Memphis can only use their Federal funds for capital projects' expenditures. So, States have to—and localities spend—all for operating, 100 percent on the hook for operating expenses. The Biden administration tried to change that, but it didn't make it into the law.

How important do you believe it is for large transit agencies in major urbanized areas like Memphis to be able to access Federal funds for operating expenses?

Ms. FERNANDEZ. Thank you very much for your question, Representative Cohen. And also, thank you for your focus on the new bus facility in Memphis that was sinking and that now has funding to be rebuilt.

As you may know, currently, large urban transit systems cannot use Federal Transit Administration funds for operations the way that smaller and rural systems can. And that is one of the reasons why, in the President's 2024 budget, he requested that Congress enact that it would increase local providers' flexibility to use those funds when they need to.

While we, of course, defer to Congress, I certainly agree that it would be helpful to transit agencies, in particular those that are facing a challenge where they are closing the gaps in their operating budgets. Currently, rural communities are able to use their formula dollars for operations. And transit is such an integral part. It is so essential to people around this country that it is imperative that they continue to have access to that service, and that access comes in the way of funding to operate the services.

Mr. COHEN. I believe I am correct, MATA goes into West Memphis even, Mr. Crawford's district.

But in closing, Administrator Bhatt, the city of Memphis got a Safe Streets for All grant, but we will need to continue funding to keep that going and get down to zero losses of lives. So, I appreciate that effort, too.

And I yield back the balance of my time.

Mr. CRAWFORD. The gentleman yields.

Mr. Nehls.

Mr. NEHLS. Thank you, Mr. Chairman.

Administrator Hutcheson, the FMCSA is considering a number of regulations that are in various stages of the rulemaking process, including a potential speed limiter mandate on the large trucks, big, big trucks. And I know you may not be able to comment in detail about the substance of the final rule, but I hope you would agree with me that a credible process is very, very important, particularly when working through controversial rulemakings.

Would you agree we need to get this right? Yes?

Ms. HUTCHESON. Representative Nehls, yes, I agree.

Mr. NEHLS. Very good. OK.

So, this is why it concerns me. This is what concerns me, that in late September, FMCSA specified a specific speed limit for the speed limiter rule, 68 miles an hour. It was in the U.S. DOT unified agenda. This was quickly rescinded and chalked up as a clerical error.

Did you know about that, 68 miles an hour, U.S. DOT? It was a clerical error. However, the same week, I believe that you were a keynote speaker at a high-dollar fundraiser—they dubbed it as a soiree—sponsored by labor unions, trial attorneys, large trucking companies. All of these stakeholders have been pressuring your agency to select a speed limiter rule set at 60 miles an hour, well below what the agency had indicated it was prepared to select.

Were these two occurrences connected in any way?

Ms. HUTCHESON. Representative, I appreciate the opportunity to make clarifications here. We have not yet set a speed limit. We

have not issued an NPRM in which that speed limit would be suggested for feedback.

Mr. NEHLS. Do you believe that it hurts the credibility of the rulemaking process by attending—keynoting a fundraiser for advocates on one side of the issue while the regulation is under consideration?

Ms. HUTCHESON. Representative, we take very seriously the fidelity of the process of rulemaking, and we don't discuss the contents of the rule even as we are engaging with our stakeholders around the—

Mr. NEHLS [interrupting]. All right. I will trust you on this. I am going to trust you on this, but I just hope that you equally consider the 15,000 comments—15,000 comments—from America's truckers who have provided input on this rulemaking. They are not going to be able to host a big fundraiser for you, but are you familiar with Land Line Magazine? Are you familiar with this [indicating magazine]?

Ms. HUTCHESON. Representative, I am.

Mr. NEHLS. It's a very good magazine. Do you read it or do you just get it or it sits on your desk? Do you read this?

This is the October 2023 issue. Page 12, very dangerous, very dangerous, it says here, talking about the speed limiters on this thing. Read this article because, I tell you, the people that travel around—and I think you mentioned earlier that truckers are moving a lot of our goods and services around. Listen to the truckers. I think they would know better than the bureaucrats and specifically Congress on this.

The AEB rule, I would like to pivot to that. I believe NHTSA, FMCSA has gone far beyond congressional intent to include vehicles for which AEB technology is not practical. Vocational, emergency vehicles, the rule as written is not implementable. I don't believe it is. Vocational vehicles are not completed on our factory lines. The chassis are sent to third-party customization shops where heavy equipment is added, like a dump truck with a big snowplow in front of it. Manufacturers would not be able to certify the system once the vehicle is altered, which can lead to a misleading understanding of AEB for the operator.

Ms. Carlson, are you familiar with this magazine [indicating Land Line Magazine]?

Ms. CARLSON. I don't, but I will.

Mr. NEHLS. Oh, you have got to read the magazine.

Ms. CARLSON. You recommend it highly.

Mr. NEHLS. The whole industry, everybody has got to.

Very dangerous. A lot of truckers say an automated emergency brake mandate would jeopardize safety. It talks about one of the truckdrivers that, it was either a shadow or the guardrail caused her to lose control on this thing. Scared the hell out of her.

Matter of fact, I've got a little Lexus, and I was backing up out of the grocery store, the H-E-B, the other day, and all of a sudden the damn thing slammed the brakes and scared me, scared my wife. I said, what the heck is happening? Well, this thing must have detected a vehicle coming from my left or my right. This can be very, very dangerous. And if you read this—matter of fact, I will give you this copy once I am done.

Ms. CARLSON. Thank you.

Mr. NEHLS. You need to read this when it talks about these brakes and how dangerous it is going to be.

Ms. CARLSON. If I might—

Mr. NEHLS [interrupting]. Let's get into what's really important as well, is my Trucker Bathroom Access Act.

Ms. CARLSON. Would you mind if I responded to—

Mr. NEHLS [interrupting]. I just have another 20 seconds here.

Are you guys—Ms. Carlson, Ms. Hutcheson, are you familiar with my Trucker Bathroom Access Act? Are you familiar with that?

Ms. HUTCHESON. Representative, I am.

Mr. NEHLS. Oh, very good. Is the administration supportive of the principle behind my bill?

Ms. HUTCHESON. Representative, we are. We believe in dignified working conditions—

Mr. NEHLS [interrupting]. I love that. I love that. And all the truckers running around trying to find a way to relieve themselves and find a bathroom to go to, I mean, it just makes sense we should provide access to bathrooms for these truckers. Easier for fellows just to go behind a truck. But what about a lady? What is a lady going to do? She has got to have access to a bathroom.

Do you have any data or ways to accumulate data for truck-drivers that would deny bathroom access or anything like that?

Mr. CRAWFORD. Quick answer on this.

Ms. HUTCHESON. Representative, your office has reached out to mine for technical assistance.

Mr. NEHLS. Beautiful.

Ms. HUTCHESON. And we look forward to continuing to address this.

Mr. NEHLS. I am glad that you support it. I will support you on this and do everything we can to make sure that our truckers have a place to relieve themselves in the right way, legally.

Thank you. I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. Stanton.

Mr. STANTON. Thank you very much, Mr. Chairman.

Ms. Carlson, did you have a short answer you wanted to give as brief as possible?

Ms. CARLSON. Thank you so much. I appreciate the opportunity.

I did just want to say that we have received comments on our proposed rulemaking. We consider every one of those comments carefully. Some of them are reflected in the article that you [Mr. Nehls] referred to, and we will issue a final rule that takes into account those comments.

Thank you.

Mr. STANTON. Thank you much.

Successful implementation of the Bipartisan Infrastructure Law is our shared priority. Every corner of my State of Arizona is benefiting from these investments, and my district is no exception. More than \$220 million has been allocated to reconstruct and expand the I-10 Broadway Curve, one of the most heavily traveled sections of freeway in the region. And recently, both the cities of Flagstaff and Globe received Safe Streets and Roads for All funding, a competitive grant program authorized by BIL, with the goal of getting us

to zero roadway deaths. This is our bipartisan work in action to keep our communities safe.

Even with these significant investments, there is still much more to do and projects that desperately need Federal support to become a reality. One of the most important is the expansion of I-10 in Arizona. Arizona has invested wisely in widening I-10 because it is a major artery for passenger and freight traffic in the southern United States. While the majority of I-10 between Phoenix and Tucson has been widened, there is one significant gap that remains only two lanes, and it lies wholly within the boundaries of the Gila River Indian Community.

And I doubt it would surprise any of us that the improved portions of the I-10 end at the Indian Community boundary and pick up on the other side of the Indian Community boundary, because for decades, centuries even, Tribal governments have not been treated equitably as partners in Federal transportation projects.

Widening I-10 and adding an interchange is vital to improve safety, provide direct access to the Gila River Indian Community's government services and hospital, accelerate response time for emergency services, and it will prevent traffic from detouring onto the reservation when bottlenecks or accidents close or otherwise restrict traffic, all priorities for modal Administrators like yourselves. And I am hopeful that I-10 can finally receive the Federal grant funding to move ahead for this much needed expansion.

Mr. Bhatt, on that theme of pending success and implementation, I want to turn to you. Included in the BIL was the ROCKS Act. This is a bipartisan effort that I led to establish a working group at DOT to examine and draft policies to ensure we have sustainable access to construction materials. My home State of Arizona has led the way in enacting policies like the ROCKS Act that keep prices low and ensure more sustainable options are available as we work to build the infrastructure funded by BIL.

It is my understanding that FHWA is working to implement this important provision and establish the Federal working group created by the ROCKS Act, but it has still not moved. Can you provide context on this, and will you investigate this important issue, work with your team to implement the working group uncovered resources?

Mr. BHATT. Thank you, Representative Stanton. I actually was in Arizona last week for a wildlife crossing award announcement and met with our team at the Broadway Curve office. And absolutely on the ROCKS Act—actually, Director Toth also mentioned the I-10 project to me. I will absolutely work with you and your office on getting that stood up.

Mr. STANTON. Yes, the ROCKS Act is important, and it has been slow to move the working group. We need to get it done. Thank you for investigating that and getting back to my office.

I am short on time, but I want to end on another success, the build-out of light rail infrastructure in the Valley of the Sun, specifically the Northwest Expansion Phase II project. I used to be mayor of Phoenix, and we put on the ballot support for light rail and other public transportation improvements back in 2015. It passed overwhelmingly, my own reelection happening on the same



ballot, and we won as well. So, it was a good day in Phoenix, and now it is coming to fruition.

This project will extend light rail west on Dunlap Avenue from 19th Avenue, north on 25th Avenue across I-17 at Mountain View Road, ending on the west side of the freeway near the former Metrocenter Mall. This project was the first CIG project to receive a full funding grant agreement under the Biden administration, and the ribbon cutting is next month.

So, I want to extend a personal invitation to you, Ms. Fernandez, to join us in Arizona for this important celebration. I hope you can make it.

Ms. FERNANDEZ. Thank you very much, Representative Stanton. I hope I can make it, too.

Mr. STANTON. Whatever you can do to make it work in your schedule.

Thank you so much, and I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman.

Thank you, panelists, for joining us here today and bringing us information and testimony that will help.

Now, we know that in my home State of California, as well as here at the Federal level, there is a lot of conversation about reducing emissions and greenhouse gas. And most specifically, it seems to boil down to carbon dioxide. And there are goals being set for that, targets, et cetera. So, I know each of you probably are looking at different aspects of those goals, I would say is probably pretty fair, right?

So, let me ask each of you, so, in order to set goals, what is the basis where we are starting at? So, I would like to ask each of you just to go down the line, please. What percent of our atmosphere currently is carbon dioxide?

Let's start with you right on the left, Mr. Monje.

Mr. MONJE. I am not 100 percent sure, but I imagine about 3-ish percent.

Mr. LAMALFA. OK. Thank you.

Mr. Bhatt?

Mr. BHATT. I think it is actually .04 percent.

Mr. LAMALFA. OK. Ms. Fernandez?

Ms. FERNANDEZ. I would go with .04 percent.

Mr. LAMALFA. OK. Ms. Hutcheson?

Ms. HUTCHESON. It is beyond our safety mission. I don't have a number for you.

Ms. LAMALFA. OK. And, finally, Ms. Carlson?

Ms. CARLSON. I don't as well, but I will say that that percentage is increasing.

Mr. LAMALFA. Is what?

Ms. CARLSON. That percentage is increasing as we emit more greenhouse gases into the atmosphere.

Mr. LAMALFA. OK. All right. It's important to know where you are starting on that. So, two of you I commend on knowing the number, .04 percent. And it is creeping up, so, four one hundredths of 1 percent is where we are starting.

So, as our atmosphere is made up of 78 percent nitrogen, 21 percent oxygen, a little under 1 percent argon, and carbon dioxide is mixed in with methane, nitrous oxide, krypton, and water vapor in the trace gases that are in there. So, indeed, I don't personally believe that carbon dioxide is the enemy. It is very essential for plant life, which if we are going to have the production of the oxygen that we need, we need plants around.

So, that said, it is even listed on your website, under climate and sustainability: DOT is committed to using all of its authorities to substantially reduce greenhouse gas emissions and transportation-related pollution.

So, I am glad at least a couple of you know what the percentage is or at least you are guessing at that.

So, Administrator Hutcheson, the administration has really launched a strong effort on the trucking industry to reduce vehicle emissions, very burdensome, expensive rules on the greenhouse gas portion. Now, I get it, on diesel emissions and soot and such and that we have made tremendous gains on having the cleanest trucking industry we have ever had currently. But the administration seems to want to push climate goals over the truckdrivers' needs, the trucking needs, and what consumers need, that if you've got it, a truck brought it.

So, at the same time, you are working on a speed limiter mandate on heavy vehicles that could actually work against the efforts to reduce emissions. It focuses on how emissions from these vehicles could be lowered by a speed limiter.

So, what the effect could likely be is that, instead of trucks being able to go with the flow of traffic—and we have seen it arbitrarily, slowing them down to, in my home State, 55 miles per hour, thereby creating this accordion effect of cars and trucks not being able to go the same speed and slowing down the ability of trucks to deliver and get their job done. And so, with the difficulty sometimes with hours of service available to drivers, it is really creating a bottleneck for a lot of folks.

So, has your agency really assessed how these overall emissions would be affected by an actual increase in truck traffic and general slowing down of traffic, Ms. Hutcheson?

Ms. HUTCHESON. Representative LaMalfa, I won't speak to the emissions piece of it. It is outside of our authorities at the Federal Motor Carrier Safety Administration. But I can repeat again some of the information I provided to Representative Nehls about the speed limiter rulemaking process.

We have not yet determined a speed. We have not yet published a notice of proposed rulemaking—

Mr. LAMALFA [interrupting]. So, it sounds like you have incomplete information on what the effects are going to be on traffic, on trucks being able to deliver, hours of service and all that, but you are moving ahead with the mandate. Is that correct?

Ms. HUTCHESON. Representative, the analysis will be published in the regulatory impact analysis, and we look forward to sharing that with you when it is available.

Mr. LAMALFA. OK. Thank you.

I am out of time. I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. García.

Mr. GARCÍA OF ILLINOIS. Thank you, Chairman and Ranking Member, and to all of the witnesses today.

Accessible transit is a matter of equity and justice. For years, disenfranchised communities have been left out of the transit planning and have suffered as a result. One such group that historically has been an afterthought in decisionmaking is the community with disabilities. That is why I am thrilled that the IIJA helped fund the All Stations Accessibility Program, which seeks to modernize rail stations to make them fully ADA accessible. It's about time that we prioritize safe and convenient travel for all users, rather than center it around able-bodied people in predominantly wealthy neighbors.

The All Stations Accessibility Program awarded \$118 million to the Chicago Transit Authority to remodel stations across the city. Many of these stations were built over 50 years ago and will be modernized with elevators, ramps, and improved signage.

While the IIJA has distributed historic investments, we also have got to make sure that they promote safety for our most vulnerable users, such as pedestrians and bikers as well. Chicago has a network of over 280 miles of bike lanes. Only 40 of them are protected with physical barriers. Archer Avenue in my district, for example, is identified as a spoke route to increase ridership in the city streets cycling program. However, the Southwest Side has many barriers to safe walking, biking, and public transportation. These barriers are the result of conditions like heavy industry and truck traffic, along with related environmental concerns. We need to make sure that districts like mine get equitable funding to make streets safe for all users.

Under Secretary Monje, DOT's National Roadway Safety Strategy includes recommendations for bike lane safety, such as installing divider posts which can drastically reduce bike crashes with vehicles. However, many roads still do not have physical barriers separating bike lanes.

As bike ridership continues to increase, can we incentivize the installation of physical barriers and improve crash reporting to keep bikers safe?

Mr. MONJE. Yes, sir. Thank you so much for your leadership. As you know, we also were able to get a Safe Streets and Roads for All project for a Safe Travel for All Roadmap for the Chicago Metropolitan Agency for Planning.

You're right, in 2022, we had 7,345 pedestrians who were killed in traffic crashes, part of an ongoing epidemic of traffic crashes that we are addressing.

The Safe Streets and Roads for All program is really a wonderful gift that the Congress gave to us because these bike lanes are very easy to put in place. They don't require a lot of construction, and just today announced another round of them. So, thank you for your support of the program.

Mr. GARCÍA OF ILLINOIS. And thank you.

Autonomous vehicles, I will zoom in on one subarea, Ms. Carlson. In 2018, NHTSA shut down an autonomous schoolbus project in Florida on a technicality. The equipment had been improperly imported from outside of the U.S. This driverless bus was taking kids

back and forth to school with no human operator. I do not believe that it's possible today to ensure the safety of schoolchildren on board vehicles absent a human driver.

Does NHTSA have the authority to ensure the safety of school kids if an American company were to produce an autonomous school vehicle? And a brief answer, please.

Ms. CARLSON. Thanks. I appreciate your interest in autonomous vehicles. This is an area where our focus is on the safety of the operation of automated vehicles in a way that can promote innovation. Those two things are not in conflict with each other. I don't believe that we can innovate unless automated vehicles are safe.

I will start with just a basic foundational notion, and that is that, if a vehicle is compliant with our FMVSSs, it is up to the States to determine the rules of the road and whether a vehicle can actually operate. But we have extensive safety authority, and we use it. We have recalled a number of vehicles under that authority, and we continue to monitor it very closely.

Mr. GARCÍA OF ILLINOIS. Thank you.

And, finally, to someone who hails from Chicago, three decades of wonderful transportation infrastructure experience, Ms. Fernandez, great to see you here.

Do you believe that you have the necessary authority to oversee the safety of autonomous transit vehicles? And what additional clarity can Congress provide in statute to prevent the unsafe operation of such vehicles?

Mr. CRAWFORD. Quick answer, Ms. Fernandez.

Ms. FERNANDEZ. Thank you for your question, Representative García, on this very important issue.

I just want to restate what my colleagues have shared, and that is that at U.S. DOT, as well as the Federal Transit Administration, safety is front and center. We always put safety of the passengers and operators above anything else, including technology.

We have been investing in research around technology for public transportation, technology that's centered upon the buses at a level, but also about automating maintenance facilities to increase the opportunities for throughput of maintaining those vehicles. We are still gathering data and information around that space, have not received a full, complete set of information that would allow us to then make a determination. However, we do know that automation is one of several advancements. However, through the Federal Government, as well as our colleagues here, those decisions around safety will be determined by other agencies within the Department.

Mr. GARCÍA OF ILLINOIS. Thank you so much.

Mr. Chairman, I appreciate your indulgence. I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. Yakym.

Mr. YAKYM. Thank you, Mr. Chairman. And thank you to our witnesses for being here today.

Ms. Carlson, on the morning of October 30, 2018, a driver in Rochester, Indiana, in my district, made a deadly decision to illegally go around a stopped schoolbus whose stop arm was up and the lights flashing were activated. She killed three siblings and seriously injured a fourth child. The incident took place in our north-

ern Indiana community and in our State, and it totally shook that community.

In the wake of this tragedy, my predecessor, the late Jackie Walorski, authored the Stop for School Buses Act. This legislation, which was included in the Infrastructure Investment and Jobs Act, or IIJA, directed NHTSA to evaluate State laws and best practices, look at the mitigation technologies, and look at driver education materials relating to illegal passing of schoolbuses.

As I understand it, NHTSA is still working on these deliverables. Could you please provide an update on where things stand and your projected timeline for completion?

Ms. CARLSON. Yes. And first let me just acknowledge the incredible tragedy in your district. It's really hard to fathom three siblings being killed. I experienced something similar in Los Angeles with a young girl who was killed as she got off of a schoolbus.

We are committed to schoolbus safety in a number of different ways. The studies that you refer to are underway. They have been contracted for. We expect them to be completed, I believe, by sometime in 2024, and we will keep you updated as soon as they are ready.

We are doing everything we can to try to—all 50 States have these laws that prevent people from passing schoolbuses that have their arms up. People don't always abide by the law. So, as you correctly point out, one of the things that we are really trying to do is educate young drivers through driver's education materials. We have a safety campaign on schoolbuses that we funded.

And one of the things that is heartening, although it doesn't take away from the tragedy you described, is that schoolbuses are actually one of the safest forms of transportation for children.

Mr. YAKYM. All right. Thank you.

As you know, there are millions of illegal schoolbus passings every year. And I appreciate your partnership and hard work to prevent another tragedy like the one that occurred in Rochester.

Mr. Bhatt, you oversee programs with \$7½ billion in funding devoted to building out electric vehicle charging infrastructure. How many chargers have been put in place and in service in that program's 2-year existence?

Mr. BHATT. On the Federal side—Representative, thank you for the question—we just had the first one go online in Ohio, but many more States are coming online in the next weeks and months.

Mr. YAKYM. Is it acceptable to you that in 2 years with \$7½ billion that we only have one charger online for that program?

Mr. BHATT. No, I think—Representative, I think we obviously would have preferred that to move more quickly. I think from a perspective standpoint, \$1.2 trillion in the Bipartisan Infrastructure Law, \$350 billion of that flowing through Federal Highways, \$7.5 billion on the NEVI program. We had to write the standards. Took us about 35 years to build the interstate system. So, 2 years in, I think we are ready to really hit the gas—that's not a good analogy—move forward quickly on—

Mr. YAKYM [interrupting]. \$7½ billion may not sound like much to our Federal Government, but to my constituents, that's what we would certainly call real money.

How many chargers do you believe will be funded by this program and up and running in service by the end of next year, by the end of 2024? What is your agency's projection?

Mr. BHATT. Thank you, Chairman. I wasn't meaning to minimize the \$7.5 billion. I was just saying in the context of the full bill.

The President has set a goal of 500,000 publicly funded chargers. There are about 166,000 in total out there now. We anticipate hitting the President's goal of 500,000—

Mr. YAKYM [interrupting]. How many from the \$7½ billion that have been allocated to this specific program—we have one charger up today. How many chargers as a part of this program do you anticipate will be installed by the end of next year from this specific \$7½ billion allocation?

Mr. BHATT. I will get you—I will be happy to follow up afterwards with a very specific number, but we anticipate all of the States coming online in the coming months.

Mr. YAKYM. And I would very much like to see the followup with the number of chargers that we project going at the end of next year. Because with one charger over the course of \$7½ billion in 2 years, I mean, obviously, you can see why there is certainly—I know one of my Democratic colleagues mentioned this as well. I mean, there is certainly bipartisan concern over this program.

So, to me, what I hear from a lot of industry is that there's a lot of redtape that's, quote, a labyrinth of new contract and performance requirements, all types of things that hold up these projects. That stands in stark contrast with a company like Tesla who has deployed 17,000 chargers without any Government interference or regulations.

So, I very much look forward to that followup.

And, Mr. Chairman, thank you for the time. I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. Carbajal.

Mr. CARBAJAL. Thank you, Mr. Chair.

And thank you to all of you for your time and your testimonies on the implementation of the Bipartisan Infrastructure Law that this committee helped draft and which was signed into law over 2 years ago.

In my district, the Bipartisan Infrastructure Law has translated into over \$550 million for more than 100 local projects, and more funding continues to come forward. It has been a win-win to help modernize our infrastructure, create good-paying jobs, and also begin to tackle the current climate crisis.

Under Secretary Monje, I recently attended COP28, where I heard firsthand the positive impacts of American leadership in beginning to reduce our greenhouse gas emissions through implementation of the Bipartisan Infrastructure Law, the Inflation Reduction Act, and the CHIPS and Science Act.

Currently, there are two new climate-focused highway formula programs the Bipartisan Infrastructure Law stood up: the Carbon Reduction Program and the PROTECT Program. Combined, these programs will help reduce our greenhouse gas emissions and harden our infrastructure against extreme weather.

Can you provide an update to us on these two programs? Specifically, how are you working with States to make sure we are fully taking advantage of them?

Mr. MONJE. Thank you so much, Congressman. As you said, the Bipartisan Infrastructure Law and the Inflation Reduction Act represent the greatest opportunity to address the fact that our transportation network is the largest source of climate emissions in our country and, in doing so, create thousands of American jobs and ensure America's leadership around the globe.

We do have \$2.8 billion for the PROTECT Program and another \$3.7 billion for the Carbon Reduction Program.

And if it's OK with you, I would like to defer to Administrator Bhatt to give an update on his programs.

Mr. CARBAJAL. Great.

Mr. BHATT. Thank you, Representative. I would just say that, of the \$27½ billion that are for climate-related funding within the Bipartisan Infrastructure Law, specifically around PROTECT, they are formula dollars that we were working with the States to get them to obligate those fundings. And we also put out a NOFO, Notice of Funding Opportunity, for discretionary PROTECT dollars that is both for the formula side is for the States and it is for communities to deal with climate-related issues for their infrastructure.

Mr. CARBAJAL. Thank you.

Administrator Bhatt, the Office of Management and Budget issued its final guidance implementing the Build America, Buy America Act in August. The guidance allows agencies to provide additional agency-specific guidance where necessary.

What, if any, FHWA guidance might be issued to address the FHWA specific issues?

Mr. BHATT. Thank you, Representative. Buy America is very important to our President, and this is something that we are working very closely to pursue. FHWA has been working on a rule-making that will propose to withdraw the standing waiver that is out there now for manufactured products and propose standards for applying Buy America requirements for manufactured products. We will continue to work with waivers for States when they come in.

So, we are trying to balance getting these projects built quickly with the idea that we want these jobs to be for American workers.

Mr. CARBAJAL. Thank you. A sense of realism is extremely important.

Administrator Bhatt, the Bipartisan Infrastructure Law required the Federal Highway Administration to establish an advisory board to inform the development of the new national pilot program to test mileage-based user fees as a replacement to the current gas tax.

Where are we with that process? When will that body be constituted?

Mr. BHATT. Yes. I think—thank you, Representative—very important that we get that feedback in to inform our next reauthorization. I think we had the call for the names to go out. We have received those, working through that, and would expect to see that come up in the next year.

Mr. CARBAJAL. Any sense, in general: next year, beginning?

Mr. BHATT. I will be happy to follow up with your office with a more specific time.

Mr. CARBAJAL. Thank you very much.

Mr. Chair, I yield back.

Mr. CRAWFORD. The gentleman yields.

Mr. Molinaro.

Mr. MOLINARO. Thank you, Mr. Chairman. Thank you all for being here today.

My colleague walked us down at least a line of questioning I was going to ask, so, I appreciated the updated information regarding the guidance.

I do want to acknowledge, of course, having spent the last 12 years serving in local government, the historic significance of the IIJA investment. Of course, in States like New York, we continue to see a delay in getting dollars on the ground ultimately for the kind of work that we would like to see advance in the State of New York.

I do want to return to the question of AI which I think came up a little bit earlier. And, Administrator Bhatt, if I could, obviously, we acknowledge AI's potential within infrastructure development. As noted earlier this year, President Biden announced, through Executive order, an AI directing Federal agencies to monitor and explore responsible use of AI as it's, obviously, increasingly deployed in a variety of industries.

Can you speak to the FHWA's response to the Executive order and discuss, if you would, the administration's plan to foster use of AI in project development and planning?

Mr. BHATT. Thank you, Representative. And I will also ask the Under Secretary as well for the more broad administration approach.

I have spent a lot of my career at the intersection of technology and transportation. AI is something we want to be very careful with as we develop solutions, particularly around the transportation side traffic operations. AI is being deployed right now by private sector companies and by States to better operate traffic management systems. On the construction side, we are looking at things like parametric design to use technologies to help us design some of our projects.

So, we are just in the nascent stages, but that's certainly something I am not sure if the Under Secretary—

Mr. MOLINARO [interposing]. Please.

Mr. MONJE. Thank you, sir.

Just this week, the President convened the AI Council, of which Secretary Buttigieg is a member. There are many use cases in transportation, as you know, including in automated vehicles, advanced air mobility, and asset management and traffic demand management.

At the Department, we are a regulator, we are a user, we are a funder of research, including at the Turner-Fairbank Highway Center, at the William J. Hughes Technical Center, and UTCs across the country.

As Administrator Bhatt said, he used to run ITS America, so, he has got a lot to know about this.



AI has to be safe and secure, it has to be responsible, it has to support American workers and ensure that we are protecting privacy as well as managing the risks for cybersecurity.

Mr. MOLINARO. Advancement and incentivizing its use in the planning and development of infrastructure and construction projects are critically important, in fact, to driving down costs and enhancing efficiency at the local level.

To Administrator Hutcheson, if you would, I also wanted to ask about AI in the trucking space and how ultimately you are collaborating with stakeholders in this space to ensure the future of the industry and, obviously, recognize the commitment to safety.

Ms. HUTCHESON. Thank you, Representative, for your highlight on AI. We are hearing from our stakeholders a growing interest in how AI is going to affect jobs in the trucking industry.

I won't claim to be an expert in AI, and I intend to rely on the experts in AI to help guide us through the work we do together, with truckers, all commercial motor vehicle operators in AI.

So, I look forward to working with you and your office on this further.

Mr. MOLINARO. I think it is for us, and certainly from my perspective, critically important we balance the use of the technology with safety, but also ensuring, obviously, the protection of those jobs. So, not only working with the AI experts, but working with the trucking experts and the folks, men and women, who are actually driving on our highways.

I have no further questions, but I do want to say, I want to offer, in particular to the FTA and Ms. Fernandez, just an observation.

Having spent much of my adult life in local elected service, public transportation is critically important. Access to public transportation for those living with intellectual, physical, and developmental disabilities is even more important.

And while we as a society have made significant advancements to address, through ADA compliance, physical disabilities, we have made very slow progress when it comes to providing access, not only physical access to America's public transit system—buses, trains, et cetera—not only access—physical access—but connection to employment opportunities, ensuring that local, regional administrators are focused on making sure that those with intellectual and developmental disabilities have access.

This is a population that experiences 80 percent unemployment. And we have a great opportunity if only the administration would put as much emphasis on intellectual and developmental disabilities as we have physical. Not a criticism, just to further incentivize.

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

Mr. CRAWFORD. The gentleman yields.

Mr. Auchincloss.

Mr. AUCHINCLOSS. Thank you, Chair.

This week, the Washington Bridge on Interstate 195 in Providence has been closed due to a critical failure of some bridge components.

Administrator Bhatt, are you aware of this closure?

Mr. BHATT. Yes, Representative. Secretary Buttigieg spoke with the Governor yesterday. We have worked with RIDOT. We have a division administrator there. And very aware of the project itself.

Mr. AUCHINCLOSS. As you know, this closure has been hugely inconvenient to tens of thousands of my constituents, and also to Rhode Island residents as well. Time away from family, missed work, and long hours in congestion.

You noted in your testimony the role that the Federal Highway Administration has played in supporting Los Angeles and Philadelphia in repairing sections of their interstates. What can Rhode Island expect in collaboration with you to address this issue as expeditiously as possible?

Mr. BHATT. Thank you, Representative.

Our division administrator and our staff are currently assessing what the options are.

This is more of a failure of a 1960s bridge, so, it's not an emergency in the same way as a tanker fire or a fire that is taken down. But there is large Federal eligibility to use funds to help repair the bridge.

Mr. AUCHINCLOSS. There is large Federal eligibility for the funds to repair the bridge?

Mr. BHATT. Through the bridge program that is provided for Federal funds. So, we are working to figure out exactly how we can best support them.

Mr. AUCHINCLOSS. That's promising, and we certainly want the funding to support it.

What about technical support to reduce the timeline to get it up and running?

Mr. BHATT. Yes, thank you, Representative.

It is my understanding that they are going to use one of the spans to take half the traffic in a couple of weeks in each direction, but 96,000 vehicles a day on that road, and then looking at a few months.

But we are actively engaged with the State, as well as the private sector contractors who are already mobilized. So, we are going to get that bridge open and repaired as quickly as possible.

Mr. AUCHINCLOSS. Do you think there are things that the State could be doing to reduce the timeline for repair? I mean, we are looking at in Pennsylvania, Governor Shapiro got it up and open in, what, a week?

Mr. BHATT. Two weeks for Pennsylvania. Eight days for California. I think every—

Mr. AUCHINCLOSS [interrupting]. Those are the kind of timelines we are looking for, I think.

Mr. BHATT. Yes, thank you, Representative. I understand that.

For Rhode Islanders and everyone on the east coast, it is a critical artery. We will do everything we can to get that bridge open as quickly as possible.

Mr. AUCHINCLOSS. OK. So, I have got your commitment for continued collaboration and technical and financial support on that?

Mr. BHATT. Absolutely.

Mr. AUCHINCLOSS. Great. Thank you.

Ms. Carlson, earlier this week I sent a letter to the Department regarding Massachusetts' right to repair law. This is overwhelmingly supported by my constituents and by Bay Staters at large.

In August, NHTSA sent a letter to Massachusetts that clarified that its right to repair law does not conflict with the Federal Vehicle Safety Act. That was a welcome revision of an earlier position.

But the letter still described a compliance system that preferences vehicle manufacturers over independent repair shops, particularly with regard to how independent repair shops access vehicle data.

This is really still disjunctive with the spirit of the right to repair law, which is that we want a level playing field for independent mechanics, as well as the automakers, to be able to repair these vehicles and really empower consumers to shop around for the best service and the best price.

Can you describe the differences between remote data access for vehicle manufacturers and independent repair shops and the safety concerns that NHTSA is purporting exists with remote access?

Ms. CARLSON. I can.

Thank you for your letter. And also, I do want to stress that we support right to repair. The Secretary supports right to repair. It is extremely important that consumers have choice.

Mr. AUCHINCLOSS. Yes, but your letter—you support the proposition of right to repair, but, unfortunately, still putting in technical impediments to its realization.

Ms. CARLSON. So, the right to repair, as I said, is extremely important. It is also extremely important that it be implemented in a way that reduces or minimizes cybersecurity risks.

And the letter that we sent to Massachusetts in August in very close collaboration with the Massachusetts Attorney General's Office and our Department of Justice and our White House sets forth a way in which the statute can be implemented that minimizes those risks.

Automobile dealer networks have a separate kind of closed system with respect to the transmission of data between manufacturers and those dealers. We work very carefully with them as well to try to minimize security risks. But it does pose a somewhat different problem.

The thing that we are really concerned about is open access where a terrorist, for example, could take over a fleet of vehicles—we have actually seen this happen with a white hat hacker—and potentially weaponize those vehicles.

Mr. AUCHINCLOSS. I understand the concerns. But you see my concern here. We have the Biden administration, which is laudably looking to break up cartel-like behavior and go after junk fees for consumers, but then we have administrative actions that are preferencing closed systems, that are preferencing the big OEMs over the independent repair shops, which are in turn really raising prices and lowering choice for consumers. So, there is a tension here.

I am concerned about cybersecurity. I worked in the industry for a couple years, I get it. I am not yet convinced that this remote data access has a big disparity for cybersecurity between these two options.

I think had NHTSA worked ahead of time with the attorney general and with interested stakeholders, as opposed to going to court, this could have been resolved more easily. And I would encourage you to continue to work to ensure that the true spirit of right to repair is realized in Massachusetts.

Ms. CARLSON. We will continue to work with the State of Massachusetts. We did get in touch—

Mr. CRAWFORD [interrupting]. You are going to have to make this a quick response.

Mr. AUCHINCLOSS. Yes. I apologize. I am out of time.

Ms. CARLSON [continuing]. Well before the court case. Sorry. I will stop there.

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

Mr. Williams.

Mr. WILLIAMS OF NEW YORK. Thank you, Mr. Chairman.

Administrator Bhatt, thank you for your comments regarding the I-81 build that is happening in my district in Syracuse, New York. And in particular, in your comments, you said that the purpose of this project and many others is to reconnect communities.

You may know that the 15th ward in Syracuse was particularly harmed, and the minority community there, a historically Black community there was actually cut in half and really never recovered from the original construction of I-81. And, of course, this project goes a long way towards restoring that community in particular.

I wouldn't expect you to know exactly the details I will describe, but I am looking for your advice and counsel.

Where this runs right next to Martin Luther King Elementary School, the highway is going to shift slightly to the east, creating a green zone and green space that has never existed before.

Now, my hope is that because it exists currently on Federal property, that there will be a lot of transparency and inclusion in the communities, in the discussion of how that created space, so to speak, gets used.

It's, I guess, my suspicion that there are a lot of backroom deals that happen that don't include, necessarily, all the stakeholders, in this case this neighborhood adjoining and surrounding the Martin Luther King Elementary School.

Can you give me any insight or advice the Federal Government's, Department of Transportation's, role in adjudicating how this green space, this new space, so to speak, gets used, and how we can be a participant—my office, your office—can be a participant in providing the transparency for what happens to that community?

Mr. BHATT. Thank you, Representative. And I have actually been to Syracuse, and I understand the impact that this roadway construction had on the neighborhood. I will follow up with you afterwards on the specifics.

I would say right now one of the projects that Secretary Buttigieg announced was I-375 conversion in Detroit, Michigan, from a highway to a boulevard that is going to free up a lot of public land. I know that in Michigan, they have stood up a local and State group to allow for community involvement. And so, I will follow up with you to see if it's the same process that would apply here.

But we always want to ensure transparency in any of these transactions.

Mr. WILLIAMS OF NEW YORK. Is there—is the Federal Government—yes, sir.

Mr. MONJE. Syracuse did get a \$500,000 planning grant to address those issues. As you said, 1958, that project displaced 1,300 families. And as we consider how to redress that, it is important to have the voice of the community in there. I would love to continue working with your office to make sure that that planning grant goes well and that the community's voice is heard.

Mr. WILLIAMS OF NEW YORK. Thank you.

I have sat down with the engineers and the public housing authorities that are adjacent to that area, and it is their number one concern. And this goes way beyond politics. It's just simply good governance and the right thing to do.

So, I just want to make sure that the Federal authorities are providing the oversight and using, frankly, our office—collectively, yours, mine—to provide that kind of transparency in this particular case.

So, I look forward to that advice, and particularly the Detroit example.

Under Secretary Monje, one of the concerns that we have in New York State is something called the Scaffold Law. There are 49 other States that have no similar law. But in New York State, we have a law that has absolute liability that comes from gravity-related incidences.

For example, on the Tappan Zee Bridge, this particular law added \$300 million of expense to the construction of that bridge. And that is true for every infrastructure project in New York.

Do you have any advice on how we can perhaps address this so that New York State can be more efficient with how it uses Federal dollars?

Mr. MONJE. Thank you, sir.

I am not familiar with that law. Worker safety is a critically important aspect of our work. And I would love to continue to work your team to address that.

Mr. WILLIAMS OF NEW YORK. I think just following the examples of 49 other States would be helpful.

Thank you.

Mr. DUARTE [presiding]. Representative Foushee.

Mrs. FOUSHEE. Thank you, Mr. Chairman.

And thank you to the witnesses for your testimonies.

The Infrastructure Investment and Jobs Act is a historic piece of legislation that is rebuilding the infrastructure we use every day to get where we need to go.

I am especially grateful for the recently announced \$1 billion grant the Department of Transportation has given to develop a new intercity passenger rail route between Raleigh, North Carolina, and Richmond, Virginia. And I was proud to join Secretary Buttigieg in North Carolina earlier this week for the announcement of this historic grant.

These investments made possible by the Biden administration will develop this intercity passenger rail route that will ease the

burden on our highways and boost economic development in North Carolina's Fourth Congressional District.

Administrator Bhatt, this summer, the Federal Highway Administration issued a call for applications for two key programs, the Reconnecting Communities Pilot under IIJA and the Neighborhood Access and Equity Program under the Inflation Reduction Act.

Each program has a focus on redressing the harms of the past, such as removing highways that divide or cut off communities. But these programs are also about building a future in communities that have been left behind. I am hopeful we will see investments in projects like providing better transit service for low-income communities.

Can you give us an update on when these awards will go out under these programs? And can you speak to how the Department will balance the funding between removing harmful or outdated infrastructure with building new infrastructure to improve access and safety?

Mr. BHATT. Thank you, Representative.

One of the projects I am most proud of in my career was the I-70 project in Denver that reconnected a community with a four-acre park and is now a model for many projects that are trying to reconnect communities that were torn apart by highway construction.

We work very closely with the Office of the Secretary on the Reconnecting Program, so, I want to let the Under Secretary address the issue.

Mr. MONJE. Thank you very much, ma'am.

And I lived for 18 months in North Carolina and traveled 30,000 miles on the highways from Murphy to Manteo.

As you mentioned, the Inflation Reduction Act and the Bipartisan Infrastructure Law gave us \$1.893 billion for grants. We are hoping to get that money out early next year. There really is a large backlog of projects.

The wonderful thing about these two projects is it gives us many tools in order to stitch back communities that were torn apart, not just by big highways, but also by rail lines, by port and airport infrastructure.

It is not always about bringing down a highway. Sometimes it is capping, sometimes it is reconfiguring different interchanges.

But there is an enormous backlog of these projects. The same story all around the country. And I look forward to working with your office.

Mrs. FOUSHEE. Also, can you tell us what you are doing to further advance equity through the IIJA funding?

Mr. MONJE. Yes, ma'am.

Equity means a lot of things for us. It is a question of making sure that people have access to the decisionmaking processes, making sure that as we put these projects on the ground, that those jobs—which don't require a college degree in many cases and are a pathway to the middle class—that more people have access to those jobs.

It means making sure that people with disabilities have access as well, and also making sure that we are being cognizant of the

impacts of both the benefits and the costs of the projects and building better than we knew how to do in the 1960s.

Mrs. FOUSHEE. Thank you, Mr. Chair. I will yield back the balance of my time.

Mr. DUARTE. The gentlelady yields back.

We will now recognize Representative Chavez-DeRemer.

Mrs. CHAVEZ-DEREMER. Thank you, Chairman.

Good afternoon. And thank you to all the witnesses for being here today.

Of course, we are here to discuss the oversight of the IJA's \$1.2 trillion that was authorized and appropriated over a 5-year plan. So, it would seem counterintuitive that certain States would continue to toll roads for infrastructure revenue.

As a reminder to all, that is exactly what the Oregon Department of Transportation proposes to do to specific areas of I-205 and I-5 near Portland and in my district.

Tolling in Oregon has united opposition from State legislators, local mayors, county commissioners, citizens from all political backgrounds, and me.

Administrator Bhatt, I appreciated getting the chance to speak with you over the phone back in October on these issues in which you explained that ODOT was reducing the scope of the proposed project, but that ODOT and the Federal Highway Administration both agree that a more extensive NEPA environmental impact statement was not necessary.

Do you still stand by that assessment, yes or no?

Mr. BHATT. Thank you, Representative. And thank you for the previous conversation.

We always follow the law, and what we are doing is—

Mrs. CHAVEZ-DEREMER [interrupting]. Yes or no, do you stand by that?

Mr. BHATT. Yes, we follow the law.

Mrs. CHAVEZ-DEREMER. Then how is it the public is supposed to feel as though they are being heard and supported in this process if there is no new or revised EIS for public scrutiny or discussion?

Mr. BHATT. We are following NEPA, and the steps of NEPA, and we are ensuring that there is public dialogue.

Mrs. CHAVEZ-DEREMER. Administrator Bhatt, the public is still unaware of what the proposal plans to do about the congestion and the new lanes.

It is my understanding that ODOT has responded to many cities in my district with dubious assumptions, weak and unrealistic analysis, or even with pertinent information for various locations and intersections omitted for responses as to how tolling is going to impact those communities. ODOT itself last summer even admitted that they missed the mark on this public admission.

Again, Mr. Bhatt, Secretary Buttigieg sat before this committee in September and stated that if a project's sponsor fails to do the appropriate outreach, then it can lead to a NEPA failure or a title VI concern and it is those scenarios that could lead to that project not getting cleared by the Department.

So, by that assessment, it makes sense to me, would the Federal Highway Administration determine that a revised scope of the tolling project, without additional environmental assessments and new

public comment period, that really constitutes a NEPA failure, correct?

Mr. BHATT. Representative, I understand your concerns about the three projects that involve tolling in Oregon. We will continue to follow NEPA. We will ensure that the public receives the necessary information and—

Mrs. CHAVEZ-DEREMER [interrupting]. But that hasn't been done to this point. There is a pause in Oregon by the Governor's office for 2 years, and there has been no answer down the road. No new testimony has been taken by the public. To me, that is a NEPA failure, correct?

Mr. BHATT. Representative, I am aware that the Governor has paused tolling, and we will continue to work with States and communities that are part of these projects.

Mrs. CHAVEZ-DEREMER. But ODOT has still yet to propose a mitigation plan or strategy. Therefore, this entire proposal from ODOT seems like it keeps moving the goalpost. That is a problem for somebody like myself who represents the entire constituency who decided that they don't want tolling any longer.

The public, like myself, we are getting frustrated, as you can probably hear it in my voice. These sorts of plans for tolling are supposed to be presented so motorists, mayors, counties, and small businesses can make meaningful comments. So, let's not burden our commuters or create havoc for small businesses and communities who still struggle with the impact of tolling.

So, again, Administrator Bhatt, based on what we have discussed thus far here today and in prior months, do you believe this process is seriously flawed? And can you commit to me and to my constituents to a redress of grievances from the communities in the Fifth Congressional District to either assist ODOT in refining the review process for tolling implementation, create new, transparent lines of communication with the public, or better yet, please work to rescind this unpopular proposal altogether?

Mr. BHATT. Representative, I hear you. I heard you in our previous conversation. I commit to working with your office, ODOT, and all the communities who are impacted to ensure that we follow NEPA to the letter of the law and make sure that the public engagement process follows.

Mrs. CHAVEZ-DEREMER. So, I still see we are no better than we were when I talked to you the first time.

With that, Mr. Chairman, I yield back the rest of my time.

Mr. DUARTE. The gentlelady yields back.

We will now recognize Representative Titus.

Ms. TITUS. Thank you, Mr. Chairman.

And thank all of you for being here.

In Nevada we are really thankful for the amount of money that we got, Mr. Bhatt, from the infrastructure bill. I think it is \$543.8 million to improve our highways and our bridges. And included in this is \$11.4 million for the Carbon Reduction Program. I would like to ask you about that, because my understanding is that since last February, the Nevada Department of Transportation and Nevada Division of Environmental Protection has been working to get some feedback and some guidance on whether the funding that we



received, that \$11.4 million, can be used for a new program that was created by the legislature.

Now, this program the legislature created is called Clean Trucks and Buses Incentive Program. We are trying to find out if the funding that is under the Carbon Reduction Program can be used to help get that program started, get it up and running, be used to help finance that incentive program.

And we haven't been able to get an answer. And it has caused confusion, and it has caused delays. And it was just yesterday that we got some response, and that wasn't very satisfactory.

So, I just need to hear you kind of address that and commit to working with us and see if we can figure out if that funding can indeed be used for that new program created by the legislature.

Mr. BHATT. Thank you, Representative Titus.

And, yes, I actually have worked very closely with Director Larkin-Thomason. The approach that Nevada is taking is a new approach. We are excited for the innovation. We just always want to make sure that we are following the law. And so, happy to engage with Nevada to ensure that we move this forward.

Ms. TITUS. Well, great. I am not sure if it's exactly right. The legislature kind of goes off on its own sometimes. But we need to have an answer to that and see if we can fix it. Because I do think it's good program. And I think the intention of it, or the goals of it, fit right in with this funding that y'all have.

So, I would appreciate it if you would work with us to see if it is eligible, see what we can do to get it going, and fix that.

Mr. BHATT. Yes, ma'am.

Ms. TITUS. Thank you very much. I am glad to have that on the record.

Secretary Monje, about a month ago, I had the opportunity to join RTC in Clark County, and it serves all of southern Nevada, and they welcomed their first battery-electric bus to the fleet. It was a very exciting and fun day. We rode the bus. And that was also made possible by the Bipartisan Infrastructure Law.

But we found that one of the challenges for transferring to these kind of buses is that they have higher upfront and fueling costs.

So, as you have now had the opportunity to work with some of the transit agencies around the country who are transitioning to this kind of fleet, do you have any need for additional support or additional changes? Anything we can do to make that process better or more efficient, quicker?

Mr. MONJE. Yes, ma'am. And I want to thank you for being generous with your time when I visited Las Vegas and visited the transit center that is also funded by the Bipartisan Infrastructure Law.

We have been working very closely with bus manufacturers. And if it is OK with you, I invite Administrator Fernandez to weigh in here, if that's OK with you.

Ms. TITUS. That would be great. Thank you.

Ms. FERNANDEZ. Thank you very much, Representative Titus, for raising the actions that RTC is taking. They have been working with the Federal Transit Administration in our regional office to look at transitioning their buses.

One of the great things about the Bipartisan Infrastructure Law is that it provided additional funding for low and no emission. We have 1,000 electric buses that are operating in roads throughout the country. And with the funding that's available, we will be able to provide additional opportunities for transit agencies to apply for our discretionary program; 2,900 more buses will be on the streets of America.

It is creating the manufacturing jobs that are necessary for us to continue to grow a healthy industry. And with the State of Nevada, and in particular the RTC now looking at that transition, we have been working very closely with them on the funding that they currently have in addition to emphasizing that in the no emission there, is 5 percent available for training existing operators to give them the skills necessary so that they can work on the new technology.

Ms. TITUS. Well, great.

Ms. Maynard, who heads up the RTC, has great leadership, a lot of vision, and that's an agency that I enjoy working with. And they have been very good at incorporating equity and serving all parts of southern Nevada. That has been a priority of theirs. And I know it's a priority of the administration. And I very much appreciate that.

But let me know if there's any way we can be helpful to push this along with their transition.

Ms. FERNANDEZ. Thank you for that offer, and I will be happy to work with you and your office.

Ms. TITUS. Thank you. I yield back.

Mr. DUARTE. All right. The gentlelady yields back.

And we will now go to Representative Stauber for 5 minutes.

Mr. STAUBER. Thank you very much, Mr. Chair.

Mr. Bhatt, you commented that \$7.5 billion in the IIJA was put forth towards charging stations. And you stated, since the legislation became law over 2 years ago, there has been one charging station constructed in Ohio. Is that correct?

Mr. BHATT. One has come online, yes.

Mr. STAUBER. Can you reassure this committee that that charging station was constructed following the Build America, Buy America critical minerals referenced charging stations, referenced the building the charging stations?

Mr. BHATT. I believe it would have been, yes. But I can confirm that.

Mr. STAUBER. Do you know if there is a, in the IIJA, if the Build America, Buy America provision even exists involving critical minerals in building out charging stations?

Mr. BHATT. Thank you, Representative. The—

Mr. STAUBER [interrupting]. The answer is no.

Mr. BHATT [continuing]. Critical minerals are—

Mr. STAUBER [interrupting]. Critical minerals, the answer is no. There is no provision in the IIJA to build charging stations using domestically sourced critical minerals mined in the United States.

Ms. Fernandez, a subcomponent in the IIJA, a subcomponent becomes a component once a manufacturing process takes place. Is that correct?

Ms. FERNANDEZ. Yes, sir, that is correct.

Mr. STAUBER. I represent the Iron Range that mines the taconite that makes approximately 80 percent of domestic steel. Under the IIJA, you could have a 25-foot piece of steel shipped in from China and another 25-foot piece of steel Chinese made, you could put them together, and the weld—it takes place in the United States—is legal under the IIJA saying it's domestically sourced.

Is that right? Do you agree? Do you agree that Chinese steel, pieces of steel that are shipped, nonunion labor, no project labor agreements, do you agree that they should be brought together here in the United States and then a U.S. worker puts a weld on it and that now becomes domestically sourced under the IIJA? Is that fair to my constituents?

Ms. FERNANDEZ. Thank you very much, Representative Stauber, for your question. It's a very important one.

The Federal Transit Administration follows the law, and Buy America requires that transit operators that are procuring—

Mr. STAUBER [interrupting]. This is the question I asked: Do you agree that Chinese-imported steel comes to the United States and because it's welded in the United States, do you believe that should be considered domestically manufactured? The answer is no, it should not be, because I want the steel domestically sourced by the miners that I represent, ma'am.

Mr. MONJE. Congressman, if I could jump in here, which is, Congress sent a very clear message to the administration, and one that President Biden supports, that the future is going to be built in America. We are implementing Buy America—

Mr. STAUBER [interrupting]. This is—but, Mr. Monje, this part of the IIJA allows that to happen. And we were getting complaints in our office.

And, Ms. Fernandez, your regional offices aren't responding to them. That's why I bring up the question.

Mr. MONJE. The Federal Transit Administration has the strongest standards for Buy America and the most expertise, to the point where other agencies are coming to us for—

Mr. STAUBER [interrupting]. Mr. Monje, just with my time left, you are a supporter of electric vehicles, right?

Mr. MONJE. Yes, sir.

Mr. STAUBER. Where would you like those critical minerals to be sourced, using American labor, American technology, or foreign adversarial nations, like Indonesia and the 15 of the 19 industrial mines in China that use child slave labor?

Do you want them mined in the United States or foreign adversarial countries? That is just the question I asked. I don't need you to belabor the point. Do you want them mined domestically in the United States or using foreign slave labor? Yes or no? Which one do you want?

Mr. MONJE. Congress and the President supports—

Mr. STAUBER [interrupting]. No, you are not answering my question. That's an easy question. Wouldn't you want it sourced in the United States using American technology and American labor? Come on.

Mr. MONJE. To be eligible for the State credits, you have to have—

Mr. STAUBER [interrupting]. Come on. That's an easy question. Don't you want American workers to produce the critical minerals—

Mr. MONJE [interposing]. Yes.

Mr. STAUBER [continuing]. That we use in our everyday lives? That's not a trick question, Mr. Monje. I think you are better than that.

And I yield back.

Mr. MONJE. Thank you.

Mr. DUARTE. The gentleman yields back.

We will now recognize Representative Sykes for 5 minutes.

Mrs. SYKES. Thank you to the chair and ranking member for this subcommittee hearing. I am really looking forward to having the conversation about the implementation of the Bipartisan Infrastructure Law.

It has been a fantastic part of the inclusion of the 13th Congressional District of Ohio and the entire State. And just last month, we were in Akron, in my district, for the groundbreaking of a local transit authority Metro for a new maintenance and operations facility, which was made possible only because of the Bipartisan Infrastructure Law.

That was a \$37 million investment into transit. And we had a similar investment in the district with \$4 million going to SARTA for the zero-emissions buses, which, again, is very exciting.

Administrator Fernandez, I would like to direct my attention to you, if I could, and let you know how much we are appreciating the work that your agency is doing and what it means to move people back and forth to work, to school, to be part of the community.

And we know these vehicles like electric cars and buses are the future, but we also know that they are going to require a different kind of infrastructure, both physical, like charging stations, and human capital, through the workforce.

So, if you could talk to us a little bit about how FTA is ensuring we have aspects of the supply chain supporting this infrastructure and a workforce.

Ms. FERNANDEZ. Yes, thank you very much for your question, Representative. And thank you for the invitation and joining us at that event, together with Senator Brown.

As we see the Bipartisan Infrastructure Law and the record level of investment that it brought to public transportation, one of the critical areas was on workforce. We wanted to make sure that the workforce was available and trained to not only provide the services, but also to maintain that investment.

The Federal Transit Administration implemented a transit workforce center to work with transit agencies to begin that very training that is so critical as we are looking at new technologies, and in this instance, zero-emission buses.

We also with the investment and the creation of a Rail Vehicle Replacement Program and the opportunities there, as well, to now look at the 22,000 rail vehicles across the Nation and 10 percent or more of that over the 25 years of useful life. We see this as an opportunity that is a whole of transit, focusing on workforce development, focusing on recruiting, retraining, and retaining employees in this industry to make it stronger.

Mrs. SYKES. Thank you so much, Administrator.

And I want to talk a little bit about the EV infrastructure and tout some great work that we have going on in Ohio. We just last Friday brought the first EV charger that was funded by the National Electric Vehicle Infrastructure Program online.

But for those of us in northeast Ohio, particularly where I currently live and drive an electric vehicle, we still have a lot of ways to go with our public infrastructure to make it more accessible to people. And it means that we certainly need to be working closer with you. And let me go ahead and extend myself as a partner to allow that to happen.

So, I have two questions to whomever wants to answer this one here.

Well, specifically, Administrator Bhatt, can you talk about what the Federal Highway Administration is doing to help localities navigating the permitting process and just the infrastructure—building up that infrastructure in a timely manner so it can be ready when people are ready to purchase those vehicles.

And, Mr. Under Secretary, I heard you going on about the tax credit. We yesterday had a townhall, telephone townhall with my district about how the Inflation Reduction Act has been lowering costs. And I know that you were about to start talking about the tax credit.

So, Mr. Bhatt, and then, Mr. Under Secretary, if you could please answer those questions.

Mr. BHATT. Thank you, Representative Sykes.

I would just say that of the \$7.5 billion, \$5 billion is for the NEVI Program, \$2.5 billion will be for community-funded chargers. So, we want there to be a broad network. Happy to work with you and any localities with our division offices.

And just on the charger piece, I know folks have said this is taking so long. Two years ago, when the program was set up, there were zero manufacturers of chargers in this country. Today there are 43. It is about \$500 million of private investment. And so, all of the chargers that are going to go in are going to be built in America, and that is what the President's vision is about.

Mr. MONJE. And, quickly, the cost of electric vehicles has dropped 22 percent—that is \$15,000—just in the last year. And thanks to the tax credits that are in the IRA, which are going to be now available at the point of sale, you can walk into a Chevy dealer and walk out with a 2023 Chevy Bolt for less than \$20,000.

There is money in our legislation, \$7 billion to promote domestic sourcing of minerals. There are a lot of incentives to make sure that the future of the automotive industry is going to be built in America.

Mrs. SYKES. Thank you, Mr. Chair. I yield back.

Mr. DUARTE. The gentlelady yields back.

We will now recognize Representative Massie for 5 minutes.

Mr. MASSIE. Thank you, Mr. Chairman.

Ms. Carlson, first of all, I want to thank you for what your Department does. It is hard to find something Government does where 90 percent of people agree or appreciate. And I think the 5-Star crash rating that NHTSA performs, there is nothing political

about it. When steel and aluminum meets a concrete barrier at 35 miles an hour, all the fiction and politics go out the window.

And I think it's a good model where you provide consumers with information they need to make a good decision and then you leave it up to the free market. The free market is involved there. You might want a 4-star crash rating or a 5-star crash rating. So, I appreciate you doing that program and administering it.

I want to focus on one program that Congress has proposed that I have questions about, and you may, too.

Section 24220 of the Infrastructure Investment and Jobs Act requires NHTSA, your Department, to issue a regulation that by 2026 all newly manufactured passenger vehicles can—and now I will read from the statute—“passively monitor the performance of a driver of a motor vehicle to accurately identify whether that driver may be impaired and prevent or limit motor vehicle operation if an impairment is detected.”

Now, we are 2 years past the passage of this law, and we are 3 years away from the deadline, not just for the rule, but for the auto manufacturers to comply.

How will this technology work? And does it exist presently?

Ms. CARLSON. First, thank you so much for the shout-out about NCAP, which I agree with you about. And we have actually issued various proposed updates to NCAP to continue that opportunity for consumer choice and to incentivize the private sector to improve safety. So, thank you.

You may have seen it yesterday, we released an ANPRM, an advance notice of proposed rulemaking, about the very question that you are asking about, the particular bill provision, that asks a series of questions and spells out what we know about the state of technology that could at some point meet the provisions of the Bipartisan Infrastructure Law, along with the Vehicle Safety Act, which imposes additional requirements on us.

We spelled out some possible technologies in that ANPRM. Those include, for example, driver monitoring that is currently used typically for advanced driver-assistance systems, but could do things like track whether somebody is actually looking at the road, whether their pupils are dilated, et cetera.

We also spelled out technology that has received funding from the Federal Government called DADSS technology. That is actually active technology. At this point, it is not passive as the bill requires.

So, we think there are promising technologies on the market, but I think it is safe to say that we do not think they are available yet in a way that actually will achieve the goals both of the Bipartisan Infrastructure Law and the Vehicle Safety Act.

And our ANPRM actually asks a bunch of questions about, how we might get there? If we do get there, what problems might arise as a result? We don't, for example, want to have false positives where somebody is detected to have alcohol in their blood and in fact does not and can't start their vehicle.

If we had a 99.9-percent effective system, we estimate there are something like 1 billion trips a day, that would leave 1 million people not able to start their vehicle.

So, we have got to get this technology right.

Mr. MASSIE. Well, the technology talks about disabling a vehicle, possibly in transit. That's very concerning to me if you have a false positive for that.

Ms. CARLSON. Yes, and we do ask questions about that in the ANPRM as well.

Mr. MASSIE. Let me just say, I had a mentor who told me that hope is not a business plan. I think that applies here.

Before seatbelts were mandated, they were an option in cars. Before airbags were mandated, they were an option in cars. And before backup cameras were mandated, they were an option in cars.

I think this is one area where Congress is way in front of its skis. And they have mandated a technology that—I mean, you are being nice about it, but let's just admit to it, it does not exist. If it did, somebody would be offering it in a car.

So, my constituents have a lot of concerns about this. It's no secret I tried to defund the mandate recently in a funding bill. And that's because it's just not feasible.

As you mentioned, the false positives would far outweigh the advantages. You have a mother who swerves to miss wildlife, and then goes around a pothole, then pulls over for an ambulance, and the dashboard is the juror and the executioner and says get over to the side of the road with your kids and wait there.

Now, how do you appeal such a conviction when your car—like, have you guys thought about that at all, how you would—

Ms. CARLSON [interrupting]. We do want to get it right. But it is the case that about one-third of motor vehicle fatalities involve impairment. So, we need to do everything we can to drive those numbers down.

We will do so in a way with technology that is fair and works and does not create false positives and addresses the kinds of questions that you are raising.

Mr. MASSIE. Let me make a prediction here right before I yield back.

This won't be ready by 2026. Congress has asked the impossible. It's a wish. It's not a plan. And I think it's wrong to put you in a position to try and mandate this.

And I yield back.

Mr. DUARTE. The gentleman yields back.

We will now recognize Representative Moulton for 5 minutes.

Mr. MOULTON. Thank you very much, Mr. Chairman.

I was delighted to see that just last week the administration announced \$6 billion in funding for high-speed railcars, the Federal-State Partnership grants. We have also heard a lot about how some of these high-speed rail projects are over budget.

Has anyone heard anything about California high-speed rail being over budget, costing a lot of money? I think we hear about that all the time. All the time.

What we never hear about is how much it costs to drive. What costs do we entail as a society when we only give people the option in most of the country of driving. Frankly, for many people who might ride California high-speed rail someday, but currently have to take a car, what does that cost?

Well, we commissioned the Harvard Kennedy School to look at this just for Massachusetts; to just do a fare cost analysis. And

their studies showed that car ownership costs the State of Massachusetts \$64 billion annually.

Every single year, Massachusetts spends \$64 billion to subsidize our car transportation system. That translates to \$14,000 per household in Massachusetts whether or not you own a car. All the non-car owners, the people who do take transit in the city, are paying \$14,000 a year to subsidize everybody else who drives on our highways across the State.

So, my understanding is that we are finally going to start looking at this at a national level for the first time in a century. Section 11530 of the IIJA required the Federal Highway Administration to undertake and complete a cost allocation study, the first time that such a study has been done since, well, I guess, since the turn of the century. It's supposed to be completed within 4 years, which is a full year before Congress reauthorizes the Surface Transportation Program.

Mr. Bhatt, can you provide me with an update on the progress of the highway cost allocation study, and what, if any, additional resources will be needed to ensure you complete this study in time?

Mr. BHATT. Thank you, Representative Moulton, for that question.

We, I believe, are hiring contractors to assist with delivering that report on time, and I will follow up with your office with an exact date.

Mr. MOULTON. Mr. Bhatt and Mr. Monje, how is the FHWA thinking about the externalities of personal vehicles that are placed on the general public?

I mean, I don't think we think about the fact, for example, that a huge amount of our public safety budget—which, again, we all support as taxpayers—goes to just emergency services on the highways. We wouldn't need nearly as many ambulances, we wouldn't need nearly as many State police cruisers if we didn't have so many people in cars and so many people, tens of thousands, annually getting in accidents and killing themselves. We don't ever think about those as costs to driving, but they are costs to driving.

Mr. MONJE. I think the word you used, "externalities," is the right one.

Our highway system is the wonder of the world, is the envy of the world. My family is from Argentina. And what they wouldn't wish to have what we have here in terms of what it does to productivity, to the ability to get our goods to market.

But it has a cost, including the crashes and the deaths that you heard about, including the air quality. And the fact is that these burdens are disproportionately impacting underserved communities.

Within my team, we are working on something called the transportation cost burden that includes exactly those issues.

Mr. MOULTON. Mr. Monje, the highway system was the envy of the world in the 1950s and 1960s. But all across the world, take Europe, for example, the current focus is getting things off the highway. They don't want to be transporting goods by highway. They want to be on rail.

Mr. MONJE. Yes, sir. And—



Mr. MOULTON [interrupting]. They are not building new highways. They are building high-speed rail systems that go three, four times as fast as highways. So, why are we still so addicted to highways as the only option in America?

Mr. MONJE. And I want to thank you for your support for rail, in particular for high-speed rail. And we have in the Bipartisan Infrastructure Law an enormous opportunity to get our system up to snuff and to be able to expand service, and—

Mr. MOULTON [interrupting]. Yes, but my question is, how are we thinking about modal transfer? Are we even having that discussion in our Department of Transportation?

Mr. MONJE. We are asking all of these questions—

Mr. MOULTON [interposing]. Modal shift, I should say.

Mr. MONJE [continuing]. And moving goods into lower carbon ways of getting around. Freight rail is a wonderful example of that.

Mr. MOULTON. Not just lower carbon, more efficient.

Mr. MONJE. Yes, sir, exactly, and safer.

Mr. MOULTON. It doesn't sound like we are thinking about this at all, and I really hope we are.

Mr. MONJE. Oh, we are. It's baked into the benefit-cost analysis that we do. It's baked in. And we are trying to get better information so that State departments of transportation can propose better projects and be held accountable for them.

Mr. MOULTON. Thank you, Mr. Chairman.

Mr. MANN [presiding]. Thank you.

Next up, the Chair will recognize the gentleman from Missouri, Mr. Burlison, for 5 minutes.

Mr. BURLISON. Thank you, Mr. Chairman.

Ms. Hutcheson, when I talk to truckers back home, they already feel that the Federal Government imposes strict regulations on them.

This includes the hours-of-service regulations that limit how far they can drive. They are faced with long days that usually end with an hour searching for a parking spot, which is exhausting to them. And now you are telling them that they will have to reach their destinations at a slower pace.

With the hours-of-service regulation already imposed, is it smart to mandate the installation of truck speed limiters when truckers are already heavily regulated? In their mind, when is enough enough?

And many are afraid that if these mandates are implemented, then truckers will not only be subject to hours of service, but will be forced to get to their destination slower. And they feel like the need to make up—so, here's my question. Many of these truckers may end up in a situation where they have to make up time, and because they have a speed limiter, the only place for them to make up time is probably on city streets, suburbs. They will have to make up time probably going through construction zones.

Are you concerned about the motivation that you are creating to be able to, I think, reduce safety in some of these very important areas?

Ms. HUTCHESON. Representative, thank you so much for this question. And I want to start by saying we share your commitment

to drivers and certainly to their safety and the safety of everybody who travels.

In our prioritization of safety and on drivers, I personally have spent a lot of time traveling around and talking with drivers themselves. I was just in Missouri at OOIDA sitting around the table, hearing about their concerns firsthand.

And I understand that sometimes drivers, they do feel squeezed. And we are doing everything we can through Bipartisan Infrastructure Law resources to study the compensation structure, detention time.

But I understand, Representative, that you are asking specifically about speed limiters. And I will say again that we are underway in a process of rulemaking. However, we have not yet issued any notice of proposed rulemaking. We have not yet set—

Mr. BURLISON [interrupting]. Well, I would encourage you to not implement that rule. I think you would have an outcry from that community.

With all these regulations, it seems like there is a lack of trust. I trust the truckdrivers in my community, and I am extremely thankful for them. They kept this country alive during COVID. But it seems like the administration's policy is a lack of trust.

So, my question is, do you trust truckdrivers to be safe on the road?

Ms. HUTCHESON. Representative, drivers are really at the heart of what we do, and safety is our mission at FMCSA. And I have met so many drivers with millions of miles of safe driving. I spoke with groups of drivers as they were about to compete in the safety championship in Indianapolis. And I know that there are so many drivers—safe drivers—committed to safety.

Mr. BURLISON. So, in short, you believe, if you trust them in their commitment to safety, then why—I would just hypothetically ask—why would we need to implement another rule on them to take away some of those decisions?

Ms. CARLSON, before you joined NHTSA, you were a law professor at UCLA Law School where you focused on air pollution and climate change law policy.

On the side, you also consulted for a law firm called Sher Edling. Is Sher Edling a for-profit law firm? Yes or no?

Ms. CARLSON. To the best of my knowledge, yes.

Mr. BURLISON. OK. And in your work for Sher Edling, this firm brought forward a wave of climate change cases against traditional energy companies, American energy companies, that everyone has to purchase from.

If Sher Edling's lawsuits are successful, will it get an enormous contingency fee?

Ms. CARLSON. I have no idea what their compensation structure is.

Mr. BURLISON. Will you get a contingency fee?

Ms. CARLSON. No.

Mr. BURLISON. OK. At UCLA, you also directed the environmental law institute, which houses the Environmental Law Clinic, and students in that clinic were provided legal assistance. They provided it to Sher Edling, the for-profit law firm that you also

helped out. In fact, you bragged about this, that the clinic was working with these lawsuits, to a major UCLA donor.

So, my question is, did your environmental law client, Sher Edling, were they not able to pay for these legal expenses themselves, that you had to use UCLA students to help them?

Ms. CARLSON. I did not direct the Environmental Law Clinic at UCLA. And as part of this, the nomination process, I was extensively vetted and complied with all ethics rules and have no further comment about it. Thank you.

Mr. BURLISON. I think the American consumer for energy is going to suffer.

Thank you.

Mr. MANN. Next, the Chair recognizes the gentleman from California, Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman.

I want to thank all the witnesses for being here.

The opportunity, but also the size and scope of what you have to do, just the size of this investment, and you include the \$380 billion in the Inflation Reduction Act on the infrastructure and energy transition, is unbelievably historic and complicated.

And then technology. I love UCLA, even though my district is next door to the mother ship of the University of California and have many employees of Berkeley there.

So, Ms. Carlson, so, I want to talk to you about technology, autonomous vehicles, and how we get this right. And, of course, we have had some very well-publicized problems in San Francisco, just to the west of my district, about AVs. So, it is really important.

In California, when I was in the legislature and I was chair of the committee of jurisdiction, we had a lot of pressure from the tech areas in the bay area to push AVs.

I brought Peter DeFazio, when he was chair of this committee, and we were in an AV going across the Bay Bridge, and he had a phone call, somebody in Oregon. He said, "I am with Mark in San Francisco. I have seen the future." And when he hung up, I said, "Peter, we are stuck in traffic."

So, all of this investment and your role to make sure they are safe. I have a facility that Secretary Buttigieg has come to, GoMentum Station, on an old military base.

So, talk to me a little bit about how you can coordinate for local governments like San Francisco, like the State of California, as a former member of the California Transportation Commission, to provide best practices with the research facilities, like the three UC system's research facilities, so that we get this right.

In California, we didn't allow AVs on the streets. One of the operators, a famous one in the East Bay, Tesla, decided to take it to another State. Within a few months, there were fatalities because they weren't ready for it.

So, talk to me about how we can get this technology right, not wait too long, but make sure the public is safe.

Ms. CARLSON. So, thank you.

I share your concerns to both prioritize safety but also to allow for innovation, because we want technology that saves lives. Forty-two thousand people dying each year on our roads is not acceptable.

I should say I started my career in the California Legislature, so, I go way back.

Mr. DESAULNIER. So do I, but probably longer than you.

Ms. CARLSON. So, NHTSA does a number of things to try to coordinate with local governments and with States, and also to really work on these dual goals—always, of course, prioritizing safety. And so, we work—we are in constant communication with the California DMV, with the PUC.

As I'm sure you know, automated vehicles can be on the road if they are FMVSS certified if the local or State jurisdiction allows them to do so. However, we issued a standing general order in 2021 that requires automated vehicles to report every single crash in which they are engaged, and that is how we learn about the kinds of crashes that have been the focus of so much attention recently.

And we then investigate those crashes that warrant further investigation. We have recalled more than one automated vehicle when we found problems.

We also, to the degree we can, subject to confidential business information, share that information with our State and local partners and try to be as absolutely transparent as possible.

We are also interested in setting up a demonstration program that would really try to marry safety with allowing for a limited deployment of some automated vehicles that might need exemptions from our Federal Motor Vehicle Safety Standards.

The idea here is to get NHTSA involved as—you can think about it as a cop on the beat, really making certain that companies have safety cultures in place, that they have built redundancies into their systems.

One of the things you worry about is, if something fails, you want something to back it up in the event that it fails, and to really, again, promote transparency and to promote information sharing with State and local governments.

Mr. DESAULNIER. Well, we really need to get this right, given your background in California. San Francisco clearly felt like they wanted to be the home of this, and they had to rescind it, and the police department was very critical of it.

Secretary Monje, your position is really important. I am proud of the fact that my bill, the Clean Corridors Act, that allowed for the infrastructure, went into the larger bill, getting this right with the marketplace. The Japanese work much closer, in my history, than we do with the manufacturers.

What are you doing to work with the manufacturers of vehicles making sure the infrastructure comes together in a smart and efficient way?

Mr. MONJE. To support automated vehicles, sir?

Mr. DESAULNIER. No. This is for everything.

Mr. MONJE. Oh. We have a deep partnership across industry, including in the construction realms, for road builders, with OEMs, as they try to build out their supply chains. It is a critical piece of our success, and every single one of us here has deep relationships on these enormous industries.

Mr. DESAULNIER. Thank you. I will follow up with you.

I yield back.

Mr. MANN. The Chair now recognizes the gentleman from Utah, Mr. Owens, for 5 minutes.

Mr. OWENS. Thank you. Thank you so much for this important hearing today.

My question today, I will start with Ms. Fernandez and the Federal Transit Administration. In my district, the Utah Transit Authority ReConnect program provides real-time responsive solutions to give stranded passengers a way to get home. This forward-looking program links passengers with rideshare or taxicab companies to complete their journey when unplanned service disruptions occur.

Unfortunately, the ReConnect program is not presently eligible for the FTA's taxicab exception rule which exempts controlled substance and alcohol testing for contracted rideshare companies when the passenger chooses to complete their transit. Because the ReConnect program proactively does this for them, the test requirement remains.

So, Ms. Fernandez, is the FTA working to update and streamline the taxicab exemption rule that will help UTA innovation and expansion to better serve the needs of their passengers?

Ms. FERNANDEZ. Thank you, Representative Owens. Thank you very much for that question. And it is good to see you.

Regarding the request from the Salt Lake City Utah Transit Authority requesting the exemption for the taxicab, I would say that we at the Federal Transit Administration are following the law as it relates to drug and alcohol testing.

And in order for the agency to provide taxicab service, the agency directly cannot identify the operator. The agency can provide vouchers, but they should not identify the operator. And that is one of the guidance that we provided to them when they inquired about this first mile/last mile.

First mile/last mile is very important. It's the way to connect to public transportation. However, the law has to be followed, and in this instance, we have provided guidance to them.

Mr. OWENS. When we are talking about something that is innovative, we are talking about not the law, but basically understanding that because of this opportunity to provide the service, they are taking on this opportunity that the customer normally takes.

Is there anything to be done to understand that there is a new way of trying to service customers and that they should not be held responsible to have testing done just because they have decided to take that over?

Ms. FERNANDEZ. Just to add to the response I provided, Representative Owens, we have been working very closely with the transit agencies to identify opportunities for microtransit.

We understand that first mile/last mile is important. In this instance, when this was shared with us by the agency, we provided our guidance to the agency regarding how they could achieve that first mile/last mile without going against what would be the requirements of the law.

Mr. OWENS. Can I ask you, can you share with us what that was? Because they are asking for an exemption that is already out there for other companies that are providing a service. Because

they are being innovative and thinking outside of the box, I would think that you would work with them to provide an exemption that they would normally get if the customer is doing it by themselves.

It is just a matter of the customer is asking for the exemption or the company giving the same service is asking for the exemption. So, can't you work with them because this is an innovative way of providing the service?

Ms. FERNANDEZ. Representative Owens, I will commit to reaching out to your office as well as have our regional office connect with the transit agency to have further discussions on this matter.

Mr. OWENS. OK.

Mr. Monje, right now, Utah is one of the fastest growing States in the Union since 2020. We are trying to absorb this growth by infrastructure further south.

Can you provide some insight on how the Federal funds for transportation products will benefit both the urban, which is where we are trying to push infrastructure to, and the—I am sorry—the urban and the rural. The rural communities are where we are trying to push the infrastructure to. Is there anything you can provide to help us understand how you might be supporting us in that effort?

Mr. MONJE. Yes, sir. Thank you.

Salt Lake City has been a major national leader in driving a lot of the things that we have talked about. When it comes to rural, we have developed something that was codified in the law called the ROUTES Initiative, which focuses on helping rural communities get, use, and deploy the funding that is available to them.

We have done over 200 debriefs with rural communities to make sure that they, if they didn't get one—our grants are very competitive—that they have a better shot next time.

The very first product that we put out to support the EV charging revolution was focused on rural deployments. So, what do they need to do, how do they need to work with utilities, siting? And so, this is a major priority for us.

Another example is the CRISI program, which is a freight rail program. A very large percentage of those dollars went to rural communities.

Mr. OWENS. OK. Thank you.

I yield back. Thank you so much.

Mr. DUARTE [presiding]. The gentleman yields back.

We will now go to Representative Garamendi for 5 minutes.

Mr. GARAMENDI. Thank you, Mr. Chairman.

Well, are you tired yet? Thank you so very much for being here.

You have undertaken extraordinary responsibilities. The legislation that has passed this House, it has been less than 1½ years, just short of 2 years now that you have had the responsibility of carrying it out. And my assessment is you have done a very, very fine job. A lot of new legislation, new programs, new requirements, new rules, procedures. And it has gone well.

In my district—thank you—big projects: high-speed rail, a lot of money, major effort in California to develop a high-speed rail system. I have personally been at that since 1988. Learned patience here. But you have come forward. And I thank you for providing

that extraordinary amount of money. That will move that system along, and eventually it will get built.

A lot of little things along the way.

Ms. Fernandez, thank you. I appreciate the work you have provided in my district for electrification. Not easy. There was no electrification program 2 years ago, but there is now. And my district is benefiting from it, and I suspect my colleagues here have also done so.

Highways, a pile of money has been put out there, a lot of it going through the States. A lot of the delays, if there are, in fact, delays, are a result of the State trying to figure out how to handle just an extraordinary amount of new money. Projects that were not on the books, were put off the books because they didn't have the money, they now have it, because the Biden administration, together with the Democrats in the House and the Senate, put forward the largest infrastructure program ever in this Nation. And all of us, Democrat and Republicans, are benefiting from it. More importantly, so are our citizens.

I thank you for the work that you are doing. Not easy. You have done well with it. Of course, there are going to be problems.

I have got a slew of questions. My staff said, "Ask them this. Ask them that." I think I just want to thank you. And, yes, I will submit the questions to you.

Overarching on my mind for many, many years now has been rebuilding the American industrial system. And built into the legislation is Buy America requirements all the way through.

And I know that all of you in your work are faced with conflicting ideas, conflicting plans, where we can't go all 100 percent Buy America "because because." But, however, the law is clear, and that is, we are intent upon building an industrial policy for the United States.

And each of you, whether it is transit, highways, or the overarching responsibility of the Secretary, you have an opportunity to carry out the goal of the legislation, which is to Buy America.

There is a problem, however, and that is the 1983 blanket waiver of the Buy America provisions. I urge you to terminate that provision. 1983. Waived almost all of the Buy America requirements. And it is in conflict with the new law and regulations that you have put forward.

You have been wrestling with it. I, frankly, don't understand what the wrestling match is about. Terminate it. Kill it. Get rid of it. And then we can get on with the overarching Buy America requirements that we now have in place.

I will go on and on. But the reality is each of you and the men and women that work with you are implementing successfully, not as fast as any one of us might want because we want to take it back to our district and say, "Even though I didn't vote for the bill, I am going to take credit for it." Shall I say that again to my Republican colleagues?

But the reality is you are doing a good job, and I thank you for that.

With that, I yield back.

Mr. DUARTE. The gentleman yields back.

We will now recognize Representative Mann for 5 minutes.

Mr. MANN. Thank you, Mr. Chairman.  
And thank you all for being here today.

I represent the Big First Congressional District of Kansas. As the geographic center of the United States, Kansas offers excellent transportation advantages for several industries.

In order to maintain these advantages, it is imperative that our State's infrastructure is up to date and safe for multimodal uses and they have an adequately staffed workforce.

Congress has implemented several initiatives to increase industry workforces. However, there have been concerns about how some programs have been implemented.

A question for you, Ms. Hutcheson.

As you know, Congress mandated that the DOT create a pilot program through IIJA to train individuals between the ages of 18 and 20 to be professional truckdrivers.

This 3-year pilot has 3,000 apprentice slots available at any one time, and it is critical to help the next generation of drivers get the necessary training to begin satisfying and productive careers in trucking.

DOT has been slow to implement SDAP, and participation numbers are so far extremely concerning.

Can you tell us what steps you are taking to build out this pilot program, increase participation, and prevent the pilot program from failing?

Ms. HUTCHESON. Representative Mann, thank you for the question about the Safe Driver Apprenticeship Pilot Program. We are working hard to build out this program.

The purpose is really to determine whether younger drivers can operate as safe as or more safely than the general commercial motor vehicle operator population, and that is through apprenticeship and training.

We are continuing to engage with stakeholders to increase participation in the program. We are using multiple channels, and we are really stepping it up, including social media, paid media, outreach specifically to vocational high schools. We are sending direct mail. And we have numerous events planned for this coming quarter and starting in January.

Mr. MANN. You said you have engaged stakeholders. As you are doing that, any indication why participation rates are so low, and anything of note that stakeholders are telling your Department?

Ms. HUTCHESON. Thank you for the question, Mr. Mann.

Very often we are finding that stakeholders never knew about it. And that means we need to increase our reach and really use the resources granted to us by Congress to ensure that stakeholders know of this opportunity.

Mr. MANN. So then, what specific changes are you making moving forward to address that concern and the other concerns that have caused the low stakeholder involvement?

Ms. HUTCHESON. Representative, we need to get the word out, and we need to do it quickly. Starting in January, we are really stepping it up. When we receive questions about the requirements, we work quickly to answer them on a one-on-one basis and help to step anyone who is interested in the program, step them through the process.



Mr. MANN. As we all know, the truckdriver shortage is a huge issue. In my view, allowing folks to become truckdrivers at the age of 18, right after high school, before they do something else in the hopes they might come back to the industry, is really important.

So, this program, this pilot program, I think there is a lot at stake, and potentially, if done well and well received, could start to move the needle for this huge shortage that impacts Kansas ag producers, our industrial companies [inaudible] all over the country.

So, I appreciate those questions and would love to continue to work with your office to make sure the program is successful. Thank you for being here.

And with that, I yield back.

Mr. DUARTE. The gentleman yields back.

We will now recognize Representative Van Orden for 5 minutes.

Mr. VAN ORDEN. Thank you, Chairman John Duarte from the great State of California.

Mr. Monje, I am going to pick up where my colleague from Minnesota left off and also where I left off talking to your boss a little bit ago.

Do you understand that cobalt is a critical mineral that is used in electric vehicle batteries?

Mr. MONJE. Yes, sir.

Mr. VAN ORDEN. Do you understand that 4.3 percent of these batteries are comprised of cobalt?

Mr. MONJE. That sounds right, sir.

Mr. VAN ORDEN. Do you understand that 70 percent of the world's cobalt is mined in the Democratic Republic of the Congo?

Mr. MONJE. Yes, sir.

Mr. VAN ORDEN. Do you understand that 15 to 30 percent of the mines in the Democratic Republic of the Congo are called artisanal mines?

Mr. MONJE. Yes, sir.

Mr. VAN ORDEN. Do you understand that these artisanal mines have thousands of children working in the condition of essentially slavery, mining cobalt in the Democratic Republic of the Congo?

Mr. MONJE. Yes, sir.

Mr. VAN ORDEN. You do. OK.

Does the Biden administration still insist on having 50 percent of all of the vehicles manufactured in the United States by 2030 be electric?

Mr. MONJE. Sir, Congress sent a very clear signal in the Bipartisan Infrastructure Law and the Inflation Reduction Act that we needed to move much more of this materials onshoring, nearshoring. The bill includes \$7 billion for EV—

Mr. VAN ORDEN [interrupting]. I am going to interrupt you because that is not the question I asked you. I asked you a very specific question.

Does the Biden administration still want 50 percent of the vehicles produced in the United States of America to be EVs by 2030, yes or no?

Mr. MONJE. Yes.

Mr. VAN ORDEN. OK. What year is it now, sir?

Mr. MONJE. 2023, sir.

Mr. VAN ORDEN. OK. Almost 2024. So, that gives us, what, 6 years to meet this goal?

Mr. MONJE. That is right.

Mr. VAN ORDEN. All right.

We are giving approximately up to \$7,500 per electric vehicle, correct, tax credits and all that stuff?

Mr. MONJE. That is correct.

Mr. VAN ORDEN. And it is now income-based with the IIJA?

Mr. MONJE. That is right, there is an income limit.

Mr. VAN ORDEN. OK. So, de facto—this is not a political statement—the United States Government is subsidizing child slavery in the Democratic Republic of the Congo. Because I don't care what you say, we have got to get this back onshore and whatnot.

That's not the case today. As we speak, there are children in the Democratic Republic of the Congo mining cobalt with their hands so that the Biden administration can meet this unrealistic goal of 2030. That is a fact. That is a fact, sir.

So, do you think it is a moral imperative that the United States Government try to prevent child slavery?

Mr. MONJE. Yes, sir.

Mr. VAN ORDEN. Even at the expense of your artificially created 2030 goal to have 50 percent of all the vehicles produced in the United States of America be electric vehicles?

Mr. MONJE. Sir, every extractive, every mining industry has a spotty record—

Mr. VAN ORDEN [interrupting]. Whoa, whoa, no, stop. No, no, no, no, no.

Mr. MONJE [continuing]. When it comes to human rights violations—

Mr. VAN ORDEN [interrupting]. No.

Mr. MONJE [continuing]. Including the oil and gas industry, sir—

Mr. VAN ORDEN [interrupting]. OK. You listen to me, Mister.

Mr. MONJE [continuing]. [Inaudible] Myanmar—

Mr. VAN ORDEN [interrupting]. We are talking about child slavery, sir.

Mr. MONJE. I have three kids—

Mr. VAN ORDEN [interrupting]. And guess what? I am having my 11th grandchild.

Mr. MONJE. People—people—people in Africa have the same desire for their—

Mr. VAN ORDEN [interrupting]. So, would you want your three children mining cobalt in the Democratic Republic of the Congo so that you and your boss and the Biden administration can have 50 percent of the electric vehicles produced in the United States by 2030 be electric vehicles or not?

This is not a political thing, sir. You guys are subsidizing child slavery. Do you understand that? That is not a Democratic issue, it is not a Republican issue, an independent issue. That is a human rights issue.

We, the United States Government, the executive branch of the United States Government, de facto right now, as we speak, are subsidizing child slavery. And I will have absolutely no part of that, and no one with a conscience should.

I yield back.

Mr. DUARTE. The gentleman yields back.

We will now recognize Representative Van Drew for 5 minutes.

Dr. VAN DREW. Thank you, Mr. Chair.

Before I ask the questions I have prepared to ask, I just had some thoughts on my colleague, the gentleman from Massachusetts, Mr. Moulton, when he spoke of mass transportation, and if I understood him correctly, how we spend too much money on roads, streets, and highways.

People in America, in the United States of America, do like to have their independence. They like to have their autonomy. They like to have their freedom. And part of that is being able to go where we want to go, when we want to go, individually, with our families, without the interference of Government.

Now, I believe in mass transportation. I think almost all of us do think it has a role. I support it, and I support rail very strongly. But there is no question that the investment that we make in roads, streets, and highways is very, very important. We need good roads. We need good highways. We need to have safe and good streets.

And to suggest that Europe does it differently doesn't mean anything to me. I don't know when we started in the United States of America to worry more about what other foreign countries do than what we do. We are the leader. I believe we are the best Nation on the face of the Earth in every way, and this is one of those ways.

I think we can all remember when we were young folks and we got our license to drive and what a big deal it was, that independence. It's the American way.

I just wanted to make that comment. No, we are not Europe. No, we are not other countries. No, we are not a globalist country. We are American exceptionalists.

Earlier this year, the Federal Motor Carrier Safety Administration proposed a Federal speed limit on heavy trucks. The Federal speed limit would restrict trucks over 26,000 pounds to whatever the speed the Federal Government decides, the same Federal Government that very often in many ways—no reflection on any of you—cannot get out of its own way. It would be enforced by digital devices attached to trucks. Talk about Big Brother.

I am here to say that this policy, in my opinion, is arbitrary. It is dangerous. It is overreaching. The proposed Federal truck speed limit takes an arbitrary one-size-fits-all reality on highway driving.

Truckers need a range of speeds in order to safely drive on the highway. I wish all of those folks who made these regulations actually drove a truck. It might be good for them.

And there were over 100,000 comments on this issue that were submitted to the draft rule. These drivers give many examples of situations in which they need to accelerate for safety, whether it is merging into highway-speed traffic, building momentum to go up a hill, or simply keeping up with the flow of traffic. It is a hard and difficult job, and they do it well.

Your policy would take those options away from them. We are tired of this. We are tired of big Government.

One gentleman, his comment was—not mine, his—quote, “This is a stupid idea,” end quote. The policy is overreach. We are tired of overreach. It is a classic example of Government coming to save us from ourselves.

There are lots of independent truckers, and they would be harmed by this policy.

So, I have a question for you. Have you estimated how many employee drivers would be impacted by your proposal and how it would affect their earnings?

I have three additional questions, but I am going to submit them for the record because I would like a thorough answer.

Administrator Hutcheson, could you comment on this issue? And could you comment how it is going to affect individual drivers to have a digital device on their truck?

Nobody has asked for this. This is another creation of big Government, in my opinion.

Please go forward.

Ms. HUTCHESON. Representative, thank you for raising this issue and the opportunity to respond.

I will clarify. You are correct, we received many, many comments. Over 14,000 comments were submitted for the record when we issued an advance notice of proposed rulemaking.

We haven’t yet issued a notice of proposed rulemaking. When we do so, it will include much of the analysis that you and your colleagues have been asking for here. When that is publicly viewable, I would be happy to share it with your office.

Dr. VAN DREW. I would appreciate that. And I sure hope that you do not rule for this, because it is a bad idea. It is bad for truckers. It is bad for the supply chain. It is bad for the United States of America.

Mr. Chairman, I have two additional questions. I would ask that I want to submit them for the record, to be put into the record.

And I yield back.

Mr. DUARTE. Without objection on your request.

The gentleman yields back. And we now recognize Representative Collins for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

I want to direct my questions to you, Administrator Hutcheson and Ms. Carlson, if you don’t mind.

I want to talk about the joint notice of proposal for the AEBs, the automatic emergency braking system. I am sorry. I have been running around here like crazy. I don’t know if you have addressed that yet this morning. Have you?

Ms. CARLSON. Only a little bit.

Mr. COLLINS. Only a little bit?

Ms. CARLSON. Only a little bit. We welcome your questions.

Mr. COLLINS. Well, do you have an update on when this rule may be finalized?

Ms. CARLSON. This is for the light vehicle or—

Mr. COLLINS [interrupting]. The automatic emergency braking system.

Ms. CARLSON. So, we have two proposals right now. We have a light-duty rule—

Mr. COLLINS [interrupting]. No. This is for the heavy-duty.

Ms. CARLSON. For the heavy-duty.

Mr. COLLINS. And the light-duty comes after the heavy-duty.

Ms. CARLSON. We are working to finalize the rule in the spring of 2024.

Mr. COLLINS. In the spring of when?

Ms. CARLSON. 2024.

Mr. COLLINS. OK. I can't hear a lot. I don't know if it is y'all's mics are far away or what.

Ms. CARLSON. I will try to shout.

Mr. COLLINS. OK. So, we just completed the comment period, right? So, I guess my question is kind of like Mr. Massie's. I would love for both of you to have to answer this.

Do you think, since after the finalization of the rule and then you have a period after that, do you really think that the safety standards are going to be there to meet the technological requirements to make the system effective?

Ms. CARLSON. So, if you don't mind, Administrator Hutcheson, happy to yield to you in a moment.

But I do want to say that we take the comments very, very seriously. That is the purpose of the comments, is to inform us—

Mr. COLLINS [interrupting]. I mean, I guess it is just a simple question. Do you think the technology is going to be there?

Ms. CARLSON. So, our best sense is that with appropriate lead time, which is something that we consider in finalizing the rule, that that technology will save hundreds of lives and prevent thousands of injuries, thousands of crashes.

Mr. COLLINS. I guess I am kind of like Mr. Massie. I just don't think hope is a very good business plan.

Ms. CARLSON. This is based on a very extensive analysis. We include this in a regulatory impact analysis that I would be happy to share with you.

Mr. COLLINS. I would like to ask, Ms. Hutcheson, if you don't mind, do you think that you were trying to just meet a congressional deadline? And I ask that just at the expense of satisfying the requirements and not making sure that the technology is there.

Ms. HUTCHESON. Representative, I really appreciate your questions and appreciate the firsthand knowledge you have in the trucking industry. I know you are a second- or third-generation family operator. So, they are very pointed questions at us.

Automatic emergency braking, as you note, is congressionally mandated. The vehicle technology itself is analyzed by our colleagues at NHTSA—

Mr. COLLINS [interrupting]. So, do you have any examples of where y'all have been addressing the false activations? Have y'all got any examples of consulting with truckdrivers?

Ms. HUTCHESON. Representative, I am going to divide my comments from the rulemaking to preserve the fidelity of the rulemaking progress and just say that I have ridden along with many truckdrivers and talked about this very issue on automatic—

Mr. COLLINS [interrupting]. You are talking to a trucker. I am in the trucking business. As a matter of fact, I probably own about 80 trucks with the collision avoidance device, is what we call it, on the front of them.

And I will tell you, they are not bulletproof. They are nowhere near it. Are you aware of what happens when this device goes off at 50, 60 miles an hour?

Ms. CARLSON. Yes—

Mr. COLLINS [interrupting]. If you are not wearing a seatbelt, it will put you to the windshield almost. And it's not there. The technology is not there. And I don't understand why the Federal agencies, the FMCSA or NHTSA, either one of you, push programs. I am much like Mr. Massie.

Listen, we all want to be safe. That's why I tried them. But they don't work perfectly. And they are very expensive. As a matter of fact, you can't disable them, so, you can't get parts for them right now. So, you know what you do? You wind up parking the vehicle.

So, you are pushing standards that the technology is not available, and I really want you to understand that. I am not trying to be ugly or anything. I am just telling you, from someone in the industry, that is my outlook on it.

Now, the other thing I want to tell you—and I want to follow up with what Mr. Van Drew and what Mr. Burlison said about speed limiters. We have speed limiters out there now. They are called speed limit signs. They are enforced by law enforcement.

Ma'am, you have CSA—do you know what CSA is, the CSA scores?

Ms. HUTCHESON. Yes, sir, I do.

Mr. COLLINS. We get them monthly. They show us when our drivers get tickets for speeding. You know who also looks at that? Our insurance companies.

The free marketplace works. And when a truckdriver is not insurable due to speeding, then he is let go or she is let go. So, we don't need the Federal Government enforcing something like this on truckers.

And the other thing I just want to finish up with is this. The AAA has come out with, time and time again, reports that say over 75 percent of accidents out there when a heavy truck and a car are involved, it is the car's fault. It is not even the truck's fault. But yet you are wanting to punish the heavy class A trucks.

Thank you, Mr. Chairman. Sorry I went over. And I yield back.

Mr. DUARTE. The gentleman yields back.

The Chair will recognize himself, Congressman Duarte, for 5 minutes.

Well, thank you all for being here.

I represent the Central Valley district, California 13, from Modesto down to Fresno, home of the California high-speed rail project, or at least great portions of it.

This is a boondoggle. This is a boondoggle that will cost carbon and billions of dollars, never pay for itself in fares. It will never offset itself in carbon emissions. It is made of concrete. These are elevated platforms in the air.

There might be some great high-speed rail around the world. There might be some great high-speed rail projects that you folks fund in California or Florida and other places around the Nation.

I just want to testify to you today this is not one of them. This is a hoax.

As we drive on our congested freeways in the Central Valley on Highway 99 and Highway 5, potholes, traffic jammed up. We literally see elevated platforms high above us—high above us—disconnected from other elevated platforms. They are the high-speed rail projects.

This thing is tanking. And we just had \$3.1 billion come, I think from you, Mr. Monje. Why are you doing this? Let me just ask you, why are you continuing to fund the high-speed rail project in California versus freeways, versus intersections, versus other traffic needs?

And I will just remind you before you answer, your agency's mission is to, quote, "deliver the world's leading transportation system, serving the American people and economy through the safe, efficient, sustainable, and equitable movement of people and goods."

This is one of the lowest income districts in the country. We have the 18th highest poverty level in the country. You are not meeting our transportation needs. You may be meeting some vanity needs in the bay area or L.A., but you are not meeting our needs. Our needs are for freeways and conventional transportation.

What motivates you to continue funding the high-speed rail at the exclusion of the transportation infrastructure we actually need?

Mr. MONJE. Thank you, sir.

We have been building a lot of roads, 175,000 miles of roads, thanks to the Bipartisan Infrastructure Law. But I have been stuck in that traffic—

Mr. DUARTE [interrupting]. Not in my district. Thank you, but not in my district. My district, when it sees transportation Infrastructure Investment and Jobs Act money, it sees elevated, isolated platforms up in the sky of a senseless investment that will be a senseless investment 10 and 20 years from now.

Mr. MONJE. That is not—I am sure the data does not bear that out.

But the project that you are talking about is one that we are watching carefully. It is going to be the key to future mobility. I have been stuck in that traffic for a long time myself.

Any transportation secretary across this country can tell you, you can't build enough freeways to get out of the problem. You have got to get people out of cars. And that is part of what the high-speed rail system is about.

That project right now has 12,000 good jobs on the ground in California—

Mr. DUARTE [interrupting]. So would dams, so would freeways, so would roadways, so would intersections, so would the infrastructure assets that we actually need.

Mr. MONJE. We are going to oversee that project very carefully. As you said, we did give a grant to the project. It is part of the future of the transportation system that is going to—

Mr. DUARTE [interrupting]. There is no history of effective oversight of this project so far. There is none. It is widely known as one of the largest boondoggles in infrastructure history, and you are continuing to fund it.

Now, exactly how are you going to oversee it going forward in a way that it hasn't been overseen in the past?

Mr. MONJE. We absolutely have learned from history of managing projects like this. It is not a myth. It is not—I mean, high-speed rail exists across the country. And President Biden believes that America deserves a world-class rail—

Mr. DUARTE [interrupting]. This project, elevated over freeways, elevated over river canyons, elevated over cities, a high-speed rail engineered to soar over the top of all other infrastructure in cities, through a very low-population density area, to connect to very remote areas that you have no engineering to get the last mile on.

You don't know how you are going to get through the Tehachapis. You don't know how you are going to get through the bay area. This is simply moving people from Merced to Bakersfield on elevated platforms that are going to cost probably over \$100 billion by the time you are done connecting two fairly midsized communities in rural areas. Then you can figure out how to get over the mountains.

Please, I mean, this is ridiculous. Why are you not building water infrastructure? I realize that's not the Department of Transportation. But why are you not building freeways?

I drive from Modesto to San Francisco to get to the airport to come here, to do this. And I can tell you, I am glad it is only 1 day a week that I have to go through the morning traffic, because my constituents can't get to the best job market in the world because the infrastructure dollars are going towards a bullet train down in the middle of a valley instead of connecting them to the places they actually want to go. Please quit funding this boondoggle.

Mr. MONJE. Yes, sir. The California High-Speed Rail Authority, they are up to 98 percent of the right-of-way. They are making good progress. We support this project—

Mr. DUARTE [interrupting]. Let them pay for it themselves.

Mr. MONJE. Yes, sir.

Mr. DUARTE. Thank you.

I will yield back to myself, I guess.

What am I doing here? Let's see.

Are there any further questions from members of the committee who have not been recognized?

Seeing none, that concludes our hearing for today. I would like to thank each of the witnesses for your testimony.

The committee stands adjourned.

[Whereupon, at 1:36 p.m., the subcommittee was adjourned.]



## SUBMISSIONS FOR THE RECORD

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**Letter of December 13, 2023, to Hon. Eric A. “Rick” Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Kristen Swearingen, Vice President, Legislative and Political Affairs, Associated Builders and Contractors, Submitted for the Record by Hon. Eric A. “Rick” Crawford**

DECEMBER 13, 2023.

The Honorable RICK CRAWFORD,  
*Chairman,*

*U.S. House Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, 2165 Rayburn House Office Building, Washington, DC 20515.*

The Honorable ELEANOR HOLMES NORTON,  
*Ranking Member,*

*U.S. House Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, 2165 Rayburn House Office Building, Washington, DC 20515.*

CHAIRMAN CRAWFORD, RANKING MEMBER HOLMES NORTON AND MEMBERS OF THE U.S. HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, we thank you for holding the hearing, “Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives”.

With hundreds of billions of dollars directed to modernize our nation’s most critical infrastructure, the modal administrators at the U.S. Department of Transportation are largely responsible for the distribution of these funds that will carry out projects across various transportation sectors throughout communities in the United States. Unfortunately, the DOT has deviated from the bipartisan agreement reached during the IIJA’s negotiation, seeking to incorporate partisan language rejected by the House and Senate that would hinder the success of this once in a generation opportunity.

ABC has previously expressed concerns about these administrative actions, including the DOT’s efforts to impose unlawful and overly burdensome policies and restrictive labor requirements on key federal infrastructure funds and projects.

### LIMITING STATE FLEXIBILITY AND AUTHORITY:

The DOT has sought to impose unlawful federal requirements on states and localities, which could limit their flexibility in implementing the IIJA. The Federal Highway Administration has been the key violator in these efforts with memos and policies that would limit flexibility for states and local communities that are best equipped to determine their transportation infrastructure needs. This includes efforts that have discouraged states from expanding highway capacity and elevating non-motorized transportation projects.

Additionally, the FHWA rule to impose greenhouse gas emissions performance measures on state departments of transportation and metropolitan planning organizations would enact after-the-fact partisan regulations affecting the implementation of the bipartisan Infrastructure Investment and Jobs Act without congressional authority. This ill-advised rule would further burden state and local governments and hinder contractors in forging ahead with much-needed modernization of key infrastructure projects in their communities.

This heavy-handedness from the FHWA differs from the bipartisan negotiated provisions of the law and violates Congressional intent when it comes to the implementation of the IIJA.

## IMPLEMENTATION OF IIJA AND PROJECT LABOR AGREEMENTS:

ABC has consistently and vigorously opposed government-mandated PLAs and PLA preferences on federal government and federally assisted construction projects, as well as state and local government infrastructure projects. PLAs needlessly increase costs, chill competition and steer hundreds of billions of dollars' worth of construction projects funded by taxpayers to well-connected special interests, i.e., construction unions and contractors signatory to specific construction unions party to a PLA.

Despite this, ABC has identified a significant number of Biden administration federal agency grants—totaling more than \$230 billion for infrastructure projects procured by state and local governments—subject to language and policies promoting PLA mandates and preferences that will increase costs and reduce competition on federally assisted construction projects.

The DOT, which has oversight over the vast majority of IIJA funding, has played a key role in pushing these costly and unnecessary agreements. ABC has identified over \$214 billion in DOT grant programs impacted by language preferring PLAs.

For example, in a fiscal year 2023 Rebuilding American Infrastructure with Sustainability and Equity grant program DOT Notice of Funding Opportunity, the department includes pro-PLA preferences for contractors, which were not included in the IIJA.

The RAISE grant program provides federal assistance to state and local government entities for the purpose of major surface transportation infrastructure projects, making at least \$2.275 billion in funding appropriated by the IIJA and other funding sources available.

However, the impact of this funding is undermined by language in the NOFO that attempts to steer these funds toward applicants that require PLAs on their projects. The NOFO includes specific language indicating that PLAs will increase applicants' scores for "partnership and collaboration," improving their chance of receiving RAISE funds.

ABC has urged the DOT to abandon these exclusionary and inflationary policies, and instead welcome the entire construction workforce to participate in rebuilding America's vital infrastructure. ABC would recommend that the committee closely examine the DOT's policies favoring PLAs to ensure DOT is maximizing return on the massive investment of taxpayer dollars represented by the IIJA.

## RESTRICTIVE REQUIREMENTS ON THE NATIONAL ELECTRIC VEHICLE INFRASTRUCTURE FORMULA PROGRAM:

The DOT is also pushing union labor requirements on the National Electric Vehicle Infrastructure Formula Program. The NEVI Formula Program will implement provisions of the IIJA that includes \$7.5 billion for electric vehicle charging stations (including \$5 billion over five years to install EV chargers mostly along interstate highways). The intent of the program is to support the installation of 500,000 electric vehicle chargers across the country by 2030 as part of the administration's push to shift away from gas-powered vehicles.

The final rule contains a number of concerning labor provisions. It requires that all electricians working on electric vehicle supply equipment either be certified by the International Brotherhood of Electrical Workers' Electric Vehicle Industry Training Program or be a graduate or recipient of a continuing education certificate from a government-registered apprenticeship program with a focus on EVSE installation approved by the U.S. Department of Labor in consultation with the DOT. Additionally, the final rule requires all NEVI-funded projects that require more than one electrician to use at least one GRAP-enrolled apprentice.

ABC previously submitted comments in response to the proposed rule and a request for information, urging the DOT to avoid union labor requirements and to instead welcome all qualified contractors to build EV chargers. Unfortunately, the agency disregarded these recommendations in the final rule which took effect on March 30, 2023.

Thank you for your consideration of ABC's concerns.

Sincerely,

KRISTEN SWEARINGEN,  
Vice President, Legislative and Political Affairs,  
Associated Builders and Contractors.

**Letter of December 8, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, and Hon. Eric A. “Rick” Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Jim Ward, President, Truckload Carriers Association, Submitted for the Record by Hon. Eric A. “Rick” Crawford**

DECEMBER 8, 2023.

The Honorable SAM GRAVES,  
*Chairman,*  
*House Transportation and Infrastructure Committee, U.S. House of Representatives,*  
*2165 Rayburn House Office Building, Washington, DC 20515.*

The Honorable RICK LARSEN,  
*Ranking Member,*  
*House Transportation and Infrastructure Committee, U.S. House of Representatives,*  
*2165 Rayburn House Office Building, Washington, DC 20515.*

The Honorable RICK CRAWFORD,  
*Chairman,*  
*The Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure, 2165 Rayburn House Office Building, Washington, DC 20515.*

The Honorable ELEANOR HOLMES NORTON.  
*Ranking Member.*  
*The Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure, U.S. House of Representatives, 2165 Rayburn House Office Building, Washington, DC 20515.*

DEAR CHAIRMAN GRAVES, RANKING MEMBER LARSEN, CHAIRMAN CRAWFORD, RANKING MEMBER NORTON, AND MEMBERS OF THE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT:

I am writing in response to the hearing “Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives” that will be held on December 13, 2023. The discussion about the industry challenges faced by the Infrastructure Investment and Jobs Act (IIJA) is of critical importance. On behalf of the Truckload Carriers Association (TCA) and its membership, I am encouraged by this hearing to examine the impacts of the IIJA amongst the Department of Transportation and its operating administrations.

The influx of \$110 billion that the IIJA authorized for highway projects was certainly a monumental step toward improving our nation’s roadways and bridges. However, of particular concern to our industry is that the funding passed in 2021 is not reflective of the costs incurred in 2023. Even the Federal Highway Administration (FHWA) tracks construction prices through its National Highway Construction Cost Index, which has already cited a fifty-three percent increase in the cost of construction projects across the country. While we must note the need for these projects, our concern lies with the projects that are in jeopardy, such as increasing the number of available truck parking spaces due to the increasing financial implications.

As you are likely aware, the truckload industry recognizes the pressing need for more truck parking spaces across the country, a specific problem that the IIJA failed to address. This need continues to pose tremendous challenges to our nation’s professional truck drivers and the efficient ability to deliver freight. Finding viable solutions to enhance truck parking availability and accessibility is crucial to ensure truck drivers’ safety and well-being and the truckload industry’s successful operation. That being said, due to the tremendous increase in costs associated with projects, we continue to question the ability of the agency to address this issue because of the increases in costs associated with construction.

The truckload industry has been a long-time advocate for increasing the Federal Fuel Tax as a viable and effective solution to allocate essential funds to the Highway Trust Fund. Essentially, as an industry, we must do our part. The current funding levels are insufficient to address the maintenance and improvements needed for our nation’s highways and infrastructure, and clearly, the inflation rates our country has experienced will influence projects that are needed. An increase in the Federal Fuel Tax would not only bridge the funding gap but also provide a reliable source of revenue for critical infrastructure projects in the years to come, supporting economic growth and enhancing road safety.

In addition to advocating for the fuel tax increase, TCA continues to advocate for the suspension or repeal of the Federal Excise Tax, a mechanism that was implemented to support our nation during World War I. We acknowledge that repealing

or suspending the Federal Exercise Tax would reduce funding for the Highway Trust Fund, necessitating an increase in the Federal Fuel Tax to offset the impact of the repeal or suspension. The initiative to repeal the Federal Exercise Tax would help alleviate financial burdens on the truckload industry and allocate better resources toward investments in modern-day equipment that will support our environment and improvements in safety performance. A careful review of the Federal Exercise Tax and its implications on the industry would be highly beneficial.

Environmental concerns consistently play a role in how our industry delivers freight. In fact, the industry has constantly demonstrated our dedication to the environment through equipment improvements. Truck engines manufactured today emit ninety-eight percent less nitrogen oxide (NOx) and particulate matter (PM) than those built thirty-five years ago. Placing this into perspective, sixty of today's trucks emit what just one truck emitted in 1988. Since 2006, the trucking industry has eliminated virtually all sulfur oxide (Sox) emissions.

With that in mind, we question the recent overreach of the FHWA in establishing emission reduction goals for states to implement. The IIJA did not include measures for the FHWA to address these parameters, especially at a time when there are more questions surrounding the adoption of zero-emission vehicles than there are actual answers to solving this potential industry-crippling change. Environmental regulations must be examined by all parties involved, vetting the unintended consequences of such laws, and delivering solutions for an industry in which these new mandates will be imposed upon. Unfortunately, the rapid pace of these rules being promulgated is far outpacing the real-life quandaries they have created. We encourage the committee to challenge the regulatory authority of DOT/FHWA in creating environmental rules that are likely out of their purview and ignoring the intent of the IIJA in the first place.

Finally, while we understand that this hearing is dedicated to examining the implications of the IIJA, two years after its enactment, we must still remind Congress and the DOT agencies that the FAST Act, enacted in 2015, directed the Secretary of Transportation to "use hair testing as an acceptable alternative to urine testing" for pre-employment and random testing of commercial truck drivers. The federal government has yet to issue guidelines, despite the presence of recognized international lab standards for hair testing and the success in going beyond prescribed regulations that many motor carriers have had when implementing this procedure for their own purposes. Eight years later, our industry continues waiting for guidelines that could permit carriers an alternative method for discovering drug abuse that would have a dramatic impact on the trucking industry drug testing protocols and allow for those results to be posted into the FMCSA Drug & Alcohol Clearinghouse.

I commend your dedication to addressing these critical issues that directly impact the truckload industry and the overall transportation infrastructure of our nation. Your efforts to explore sustainable funding methods and improve infrastructure are vital to a safer, more efficient, and prosperous future.

Thank you for your commitment to these essential matters. I look forward to seeing the positive outcomes and solutions that will occur from your discussions.

Sincerely,

JIM WARD,  
TCA President.

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**Letter of December 12, 2023, to Hon. Eric A. "Rick" Crawford, Chairman, and Hon. Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, from Catherine Chase, President, Advocates for Highway and Auto Safety, Submitted for the Record by Hon. Eleanor Holmes Norton**

DECEMBER 12, 2023.

The Honorable RICK CRAWFORD, Chair,  
The Honorable ELEANOR HOLMES NORTON, Ranking Member,  
*Committee on Transportation and Infrastructure,*  
*Subcommittee on Highways and Transit, United States House of Representatives,*  
*Washington, DC 20515.*

DEAR CHAIRMAN CRAWFORD AND RANKING MEMBER HOLMES NORTON:

Thank you for holding tomorrow's hearing, "Oversight of the Infrastructure Investment and Jobs Act: Modal Perspectives." With deaths and injuries on our Nation's roads at historically high levels, the safety advances included in the law by

this Subcommittee must be implemented by the U.S. Department of Transportation (DOT) in a comprehensive and expeditious manner. Advocates for Highway and Auto Safety (Advocates) respectfully requests this letter be included in the hearing record.

MOTOR VEHICLE CRASHES ARE A PUBLIC HEALTH CRISIS WHICH DEMAND IMMEDIATE ACTION

On average, 118 people were killed every day on roads in the U.S. in 2021,<sup>1</sup> totaling nearly 43,000 fatalities for the year. An additional 2.5 million people were injured.<sup>2</sup> This represents a 27 percent increase in deaths in just a decade.<sup>3</sup> Early projections for 2022 traffic fatalities remain high,<sup>4</sup> as do estimates for the first six months of 2023.<sup>5</sup> In addition to vehicle occupants, other road users experienced upturns in deaths as well. Pedestrian fatalities grew by 13 percent, and bicyclist deaths were up two percent from 2020 to 2021.<sup>6</sup> While pedestrian fatalities are estimated to have decreased one percent in 2022, bicyclist fatalities spiked by 11 percent.<sup>7</sup>

In 2021, 5,788 people were killed and nearly 155,000 people were injured in crashes involving large trucks.<sup>8</sup> Since 2009, the number of fatalities in large truck crashes has increased by 71 percent.<sup>9</sup> In that same timespan, the number of people injured in crashes involving large trucks increased by 109 percent.<sup>10</sup> Early estimates indicate that in 2022, traffic fatalities in crashes involving at least one large truck were up another two percent; 5,887 people were killed.<sup>11</sup> In fatal two-vehicle crashes between a large truck and a passenger motor vehicle, 97 percent of the fatalities were occupants of the passenger vehicle.<sup>12</sup>

Conservatively, the annual economic cost of motor vehicle crashes is approximately \$340 billion (2019 dollars).<sup>13</sup> This means that every person living in the U.S. essentially pays an annual “crash tax” of over \$1,000. Moreover, the total value of societal harm from motor vehicle crashes in 2019 was nearly \$1.4 trillion.<sup>14</sup> The cost to society from crashes involving large trucks and buses was estimated to be \$143 billion in 2020, the latest year for which data is available.<sup>15</sup> When adjusted solely for inflation, this figure amounts to over \$166 billion.<sup>16</sup>

<sup>1</sup> Overview of Motor Vehicle Traffic Crashes in 2021, NHTSA, Apr. 2023, DOT HS 813 435. (Overview 2021).

<sup>2</sup> Overview 2021.

<sup>3</sup> Traffic Safety Facts 2020: A Compilation of Motor Vehicle Crash Data, NHTSA, Oct. 2022, DOT HS 813 375. (Annual Report 2020); and Overview 2021; [comparing 2012 to 2021].

<sup>4</sup> Traffic Safety Facts: Crash Stats, Early Estimate of Motor Vehicle Traffic Fatalities in 2022, NHTSA, Apr. 2023, DOT HS 813 428. (Early Estimates 2022).

<sup>5</sup> National Center for Statistics and Analysis. (2023, September). Early estimate of motor vehicle traffic fatalities for the first half of 2023 (Crash Stats Brief Statistical Summary. Report No. DOT HS 813 514). NHTSA.

<sup>6</sup> Overview 2021.

<sup>7</sup> Traffic Safety Facts: Crash Stats, Early Estimates of Motor Vehicle Traffic Fatalities And Fatality Rate by Sub-Categories in 2022, NHTSA, Apr. 2023, DOT HS 813 448.

<sup>8</sup> Overview of Motor Vehicle Traffic Crashes in 2021, NHTSA, Apr. 2023, DOT HS 813 435.

<sup>9</sup> *Id.* and Traffic Safety Facts 2020: A Compilations of Motor Vehicle Crash Data, NHTSA, Oct. 2022, DOT HS 813 375. Note, the 71 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 2019, it increased by 7.6 percent, and between 2020 and 2021, it increased by 17 percent.

<sup>10</sup> Traffic Safety Facts 2021 Data: large Trucks, NHTSA, Jun. 2023 (Revised), DOT HS 813 452; Traffic Safety Facts 2020, NHTSA, Oct. 2022, DOT HS 813 375. Note, the 109 percent figure represents the overall change in the number of people injured 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 people injured in truck-involved crashes increased by 59 percent, and between 2016 to 2019, it increased by 18 percent, and between 2020 and 2021, it increased by 5 percent.

<sup>11</sup> Traffic Safety Facts: Crash Stats; Early Estimates of Motor Vehicle Traffic Fatalities and Fatality Rate by Sub-Categories in 2022, NHTSA, Apr. 2023, DOT HS 813 448.

<sup>12</sup> Insurance Institute for Highway Safety (IIHS), Large Trucks. See: <https://www.iihs.org/topics/fatality-statistics/detail/large-trucks>.

<sup>13</sup> The Economic and Societal Impact of Motor Vehicle Crashes, 2019, NHTSA, Dec. 2022, DOT HS 813 403. (Economic and Societal Impact 2019).

<sup>14</sup> Economic and Societal Impact 2019

<sup>15</sup> 2022 Pocket Guide to Large Truck and Bus Statistics, FMCSA, Dec. 2022, RRA-22-007.

<sup>16</sup> CPI Inflation Calculator, BLS, Jan. 2020 to Jan. 2023.

THE INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA) MUST BE IMPLEMENTED  
PROMPTLY

Fortunately, commonsense solutions were advanced by this Subcommittee during the consideration of the IIJA.<sup>17</sup> The Safe System Approach is incorporated in the IIJA and undertakes a holistic method to improve safety in the roadway environment. In addition, the IIJA authorizes safety upgrades to the Highway Safety Improvement Program (HSIP) that will help to protect vulnerable road users, such as infrastructure features that calm traffic and reduce vehicle speeds. The ripple effect of these crash reductions is wide-ranging and includes less damage to infrastructure, less congestion caused by crashes, and less expenditure of first responder resources, among others. Additional provisions included by the Subcommittee such as addressing impaired driving, improving the safety of vulnerable road users, expanding the safe routes to schools program and mitigating underride crashes will help to improve safety on our Nation's roads.

Advocates remains deeply concerned about DOT's backlog of overdue rulemakings as well as its ability to meet the deadlines mandated in the IIJA. In fact, last week DOT released the Fall 2023 regulatory agenda which indicates that DOT will fail to meet the dates required by Congress for some of the most critical safety rulemakings.<sup>18</sup> It is incumbent upon this Subcommittee to ensure that U.S. DOT meets the directives of the IIJA to issue critical safety rulemakings or lives will be needlessly lost.

We laud the Committee for holding this oversight hearing to ensure that DOT implements the safety advances of the IIJA in a timely manner. We look forward to continuing to work with you to improve safety on our Nation's roadways.

Sincerely,

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

cc: Members of the Subcommittee on Highways and Transit

**Article entitled, "Why Are So Many American Pedestrians Dying at Night?"  
by Emily Badger, Ben Blatt, and Josh Katz, New York Times, December  
11, 2023, Submitted for the Record by Hon. Jake Auchincloss**

WHY ARE SO MANY AMERICAN PEDESTRIANS DYING AT NIGHT?

by Emily Badger, Ben Blatt, and Josh Katz  
New York Times, December 11, 2023  
<https://www.nytimes.com/interactive/2023/12/11/upshot/nighttime-deaths.html?searchResultPosition=1>

Sometime around 2009, American roads started to become deadlier for pedestrians, particularly at night. Fatalities have risen ever since, reversing the effects of decades of safety improvements. And it's not clear why.

What's even more perplexing: Nothing resembling this pattern has occurred in other comparably wealthy countries. In places like Canada and Australia, a much lower share of pedestrian fatalities occurs at night, and those fatalities—rarer in number—have generally been declining, not rising.

In America, these trends present a puzzle that has stumped experts on vehicle design, driver behavior, road safety and how they interact: What changed, starting about 15 years ago, that would cause rising numbers of pedestrian deaths specifically in the U.S.—and overwhelmingly at night?

"This is something that, quite frankly, our profession missed," Rebecca Sanders, the founder of Safe Streets Research and Consulting, said of the toll of nighttime deaths. "I think we missed that for a long time."

In 2021, more than 7,300 pedestrians died in America—three in four of them during the hours between sunset and sunrise.

This trend exists on top of what is already a growing gap in roadway deaths between the U.S. and other countries. Speed limits on local roads are often higher in the U.S., laws and cultural prohibitions against dangerous driving can be weaker,

<sup>17</sup> Pub. L. 117–58 (2021).

<sup>18</sup> Agency Rule List—Fall 2023, U.S. Department of Transportation, available at: [https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=2100](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=2100)

and American infrastructure in many ways has been designed to enable speeding cars.

Those baseline conditions may mean, researchers suggest, that American roads—and the pedestrians walking along them—have been especially susceptible to potential new risks like smartphones and bigger vehicles.

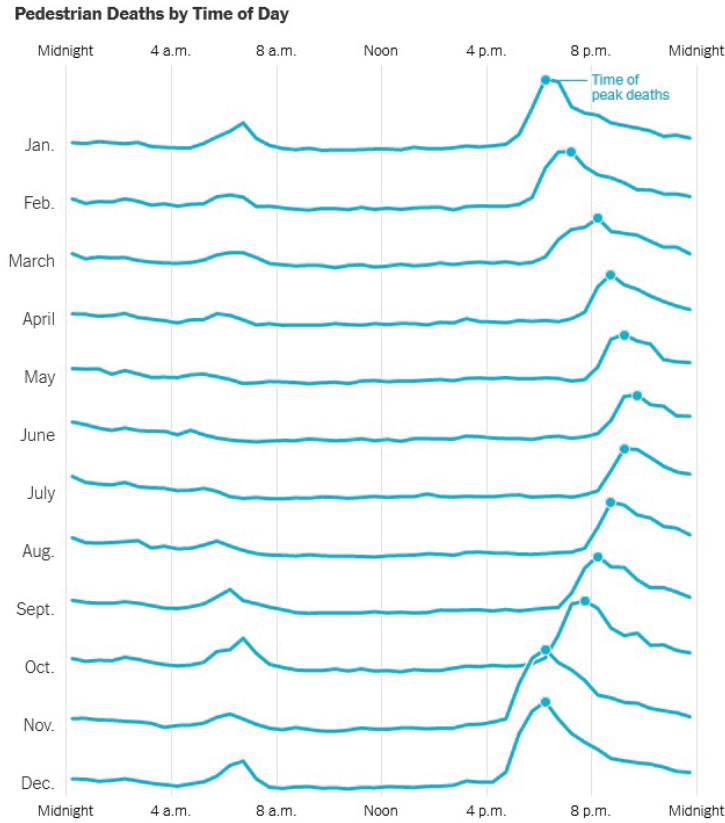
But even that is only part of the picture.

“I don’t have any definitive answers for this,” said Jessica Cicchino, the vice president for research at the Insurance Institute for Highway Safety. Ms. Cicchino, like many observers, has puzzled over how rapidly nighttime deaths have risen. “What is it that’s happening specifically in the dark?”

THE DANGER OF DARKNESS

For starters, it’s important to understand just how stark the threat of darkness is for pedestrians in the U.S. Federal data that tracks every roadway fatality makes clear that the problem is not just about the behaviors and routines that happen to occur around nighttime (leaving work, for example, or going to bars). It is darkness itself that matters.

This chart shows the deadliest time of day for pedestrians, averaging data from 2000 to 2021 over a whole calendar year:



Source: New York Times analysis of federal road fatality data.

Another way of describing this picture: It shows the annual arc of the setting sun. Researchers have found related patterns looking at fatal collisions that occur in the weeks before and after clocks change for daylight saving time. When the 6 p.m. hour abruptly changes from light to dark, for example, even as traffic patterns generally remain the same, that hour becomes abruptly more deadly, too.

“It’s purely an effect of daylight or darkness—and it’s huge for pedestrians,” said Michael Flannagan, a retired professor at the University of Michigan.

In the dark, pedestrians are harder to see than other road users. They typically don’t wear reflective gear or lights, and their outerwear is often dark in color. American roads also weren’t particularly engineered with this risk in mind.

“We literally taught generations of engineers to design conditions for daylight and not to consider nighttime,” Dr. Sanders said.

The risk for other road users is higher during the day: The majority of deaths among vehicle occupants occur then. Until the last few years, that was true of cyclist fatalities, too. Even incidents of cars driving off the road don’t spike with night-fall in the same way that pedestrian fatalities do.

Darkness, it appears, especially threatens people on foot.

Or, rather, people on foot in America. In comparable countries, pedestrians are generally more likely to be fatally struck during the day.

#### NEW RISKS

The most obvious potential risks that have changed in America since 2009 are found inside vehicles—in the drivers there fiddling with smartphones, in the dashboard displays that have grown ever more complex, in the growing weight and force of vehicles themselves.

Smartphones have become ubiquitous with remarkable speed, overlapping closely with the timeline of rising pedestrian deaths. Apple’s iPhone was introduced in 2007. Within a few years, one-third of American adults said they owned a smartphone. By 2021, according to the Pew Research Center, 85 percent did.

When it comes to other sources of driver impairment, “there’s no particular reason to believe that alcohol, speeding or fatigue necessarily have changed in any kind of big way,” said David Strayer, a psychologist who studies driving at the University of Utah. “What has changed is the amount of technology that we’re surrounding ourselves with.”

Smartphones—and the way they can distract both drivers and pedestrians—aren’t uniquely American. But there is one thing that is still distinctly so: the pervasiveness in the U.S. of automatic transmissions, which help free up a driver’s hand for other uses. Just 1 percent of all new passenger vehicles sold this year in the U.S. had manual transmissions, according to the online car-shopping resource Edmunds. In Europe, manual transmissions are declining in popularity as a share of new light vehicles sold. But they still make up about 70 to 75 percent of cars on the road, estimated Felipe Munoz, senior analyst at JATO Dynamics.

It’s perhaps not surprising then that Americans spend nearly three times as much time interacting with their phones while driving as drivers in Britain, according to smartphone data collected by Cambridge Mobile Telematics, which helps auto insurers, carmakers and local governments track and reduce dangerous driving. In the U.S., that distracted driving—detected when phones are tapped or in motion in vehicles traveling faster than 9 miles per hour—also typically peaks in the evening hours, according to the company’s data.

Though this data doesn’t capture exactly what people are doing on their phones, evening is when people often coordinate social activities and manage after-hours work messages and tasks. America’s round-the-clock work culture may contribute to that trend.

“The adoption of smartphones for the past 15 years—where we are today, being addicted on social media and other apps—absolutely contributes to the increase in fatalities on our roads,” said Matt Fiorentino, Cambridge Mobile Telematics’ vice president for marketing.

Official data linking smartphones and crashes is hard to find, though, given that the police typically don’t ask people involved if they were using phones (and those people might not answer truthfully anyway).

Beyond just display screens, new vehicles have also changed to be wider, longer, taller and heavier. Not only do heavier vehicles hit pedestrians with more force, but they also often have worse brake times, meaning a driver who notices a pedestrian at the last second may strike that person at higher speeds. Studies have also indicated that vehicles with taller hoods are more likely to kill if they hit pedestrians; they strike people closer to the head or torso, instead of the legs.

While researchers have pointed toward vehicle size as a factor explaining America’s high overall rate of pedestrian fatalities, several said they were skeptical that it explains much of the increase since 2009. That’s because American cars were relatively large even before 2009, and the rate at which new cars replace existing ones is slow.



“In explaining the big run-up in pedestrian deaths, it’s not actually a huge portion,” said Justin Tyndall, an assistant professor at the University of Hawaii Economic Research Organization. His research estimates that the change in vehicle types since 2009 is responsible for less than 100 additional deaths per year. By comparison, around 3,300 more pedestrians died in 2021 than in 2009.

Similarly, ownership of smaller vehicles (like sedans, coupes and station wagons) is down since 2009. But total pedestrian deaths from these same cars are up more than 70 percent, suggesting the bulk of the problem cannot be attributed to increased car size alone.

The behavior of drivers inside vehicles—of any type—may also have changed over this time for a few additional reasons, researchers suggest. This timeline also overlaps with the rise of opioids and the legalization of recreational marijuana. But there is little research about how marijuana affects driving.

Periodic federal roadside surveys, last updated in 2013–14, have found declining alcohol use by drivers and a rising share testing positive for drugs. A more recent federal study, collecting data from trauma centers and medical examiners about seriously or fatally injured road users, found in the years leading up to the pandemic that half of the drivers studied tested positive for at least one active drug. During the pandemic, that share rose to 65 percent. The results, the authors warned, “could be indicative of a growing problem.”

#### SOCIETAL CHANGE

None of the explanations so far easily accounts for the full rise of pedestrian fatalities in the U.S. But while less obvious than driver and vehicle behavior, changes that have happened outside the car and across American society may be just as important.

One theory is that Americans have been migrating toward the Sun Belt, including parts of the country that developed in the auto age, that have particularly poor pedestrian and transit infrastructure, and that have some of the highest pedestrian fatality rates. The rise in pedestrian deaths has been nationwide, with per-capita pedestrian fatality increases in 47 states since 2009. But many areas that have had poor pedestrian safety records going back decades—especially metro areas in Florida, Texas, and Arizona—have also seen the greatest recent population growth.

The number of pedestrian fatalities in Florida has increased 75 percent since 2009, while the population has increased around 17 percent. Such state population changes alone don’t explain most of the rise in deaths, however. More relevant patterns may have to do with where, specifically, people have moved within those states.

Nationwide, the suburbanization of poverty in the 21st century has meant that more lower-income Americans who rely on shift work or public transit have moved to communities built around the deadliest kinds of roads: those with multiple lanes and higher speed limits but few crosswalks or sidewalks. The rise in pedestrian fatalities has been most pronounced on these arterials, which can combine highway speeds with the cross traffic of more local roads.

Research has found that pedestrian deaths over the last 20 years have declined in downtown areas and increased in the suburbs, often in places where lower-income residents live. Such suburban arterial roads are also where many communities have allowed multifamily and affordable housing construction that has been less welcome in neighborhoods with inherently safer streets.

In Portland, Ore., for example, immigrants and lower-income residents priced out of other parts of the city have moved in along some of the region’s most notoriously dangerous corridors, like 122nd Avenue, a five-lane arterial that runs through the city’s most racially and ethnically diverse neighborhoods.

“Now we have folks that are living, working, shopping, going to school directly on these roads that were essentially built as highways,” said Dana Dickman, the traffic safety section manager for the Portland Bureau of Transportation.

In more recent years, the rise of homelessness in many American cities since about 2016 has also put a growing vulnerable population on streets in conflict with speeding cars. In 2021, 70 percent of Portland’s pedestrian fatalities were among the homeless. Last year, about a third were, similar to recent data in Los Angeles. Such data is relatively limited and new, but other cities including Colorado Springs and San Jose, Calif., have also noted a rise in pedestrian fatalities among the homeless.

The homeless population may have little choice but to be out at night, and near dangerous roads.

“Where they’re actually living unhoused—next to freeways, next to undercrossings—those are typically places that are busy streets,” said Tim Weisberg, a deputy director for the California Office of Traffic Safety.

Nationwide, the overwhelming majority of the rise in pedestrian deaths since 2009 has come among working-age Americans, reinforcing the idea that this shift may also have to do with where those people are living and spending time.

People 17 and under are the one group bucking the overall trend, and deaths of children walking are at a record low. Not only are children less likely to be walking at night when the majority of pedestrian deaths occur, but studies have also estimated that the percentage of children who walk or bike to school has declined precipitously over the last 50 years.

Individually, any of these theories seems unsatisfying. But put together, it's clear that there's been a particularly American mix of technological and social changes over the past decade and a half. And they have all come on top of a road system and an ingrained culture that prioritizes speed over safety. Whatever has happened over this time has reversed years of progress on daytime pedestrian fatalities, too, leading to a modest increase in deaths. Nighttime, however, has the potential to amplify so many of these new risks.

A transportation system that's safer by design—as in many European countries—might better absorb any one of these dangers. Distracted drivers are safer at lower speeds. People out at night are safer with well-lit crosswalks.

Even “monster trucks are safe on safer roads,” said Nicholas Ferenchak, a professor at the University of New Mexico and director of the Center for Pedestrian and Bicyclist Safety.

Now imagine distracted drivers in monster trucks on high-speed roads in the dark.

## APPENDIX

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### QUESTIONS TO HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION,<sup>1</sup> FROM HON. ERIC A. “RICK” CRAWFORD

*Question 1.* In October 2023, the Department of Transportation (DOT or Department) released a plan to accelerate deployment of vehicle-to-everything (V2X) communications technology, which enables vehicles to communicate with each other, pedestrians, and roadway infrastructure.<sup>2</sup> It outlines specific deployment targets over the next 10 years for multiple stakeholders, including infrastructure owners and operators, and automobile manufacturers.<sup>3</sup> Please discuss the importance of V2X communications technology—specifically, as it relates to roadway safety efforts—and how the Office of the Secretary will leverage the Department’s resources and organizations to encourage deployment of this technology?

*ANSWER.* The National Roadway Safety Strategy (NRSS) outlines key near-term actions that the U.S. Department of Transportation (DOT) is undertaking to significantly reduce serious injuries and deaths on our Nation’s highways, roads, and streets. One highlighted action on the NRSS Tracking Dashboard<sup>4</sup> is the promotion of technologies to advance roadway safety. This action specifically includes both Intelligent Transportation Systems (ITS) and interoperable vehicle to everything (V2X) wireless communications, recognized as additional safety tools. V2X communications serve as a mechanism to deliver timely driver warnings and vulnerable road user alerts by processing data from multiple vehicles, mobile devices, and connected roadway infrastructure. The timely integration of relevant data from these sources through V2X enables multiple safety applications.

V2X applications enable drivers to be warned of hazardous situations before they can see them. For example, the Connected Vehicle Pilot Deployment Program (2015–2022)<sup>5</sup> successfully demonstrated more than 20 V2X-enabled safety applications in diverse locations. This ranged from alerting drivers to the presence of pedestrians in mid-block crossings in downtown Tampa to providing timely road weather/visibility alerts to truck drivers traversing I–80 in Wyoming during blizzards.

Over the past year, the DOT has undertaken significant actions to support the ITS community and to promote the deployment of V2X technology. In October 2023, FHWA and the ITS Joint Program Office issued the *Draft National V2X Deployment Plan*.

Industry has expressed appreciation for DOT’s leadership in issuing the Draft Plan and working with the Federal Communications Commission (FCC) to provide certainty related to spectrum requirements. Also in October 2023, DOT announced the *Saving Lives with Connectivity: Accelerating V2X Deployment* Notice of Funding Opportunity.<sup>6</sup> This groundbreaking \$40 million grant initiative aims to empower entities to deploy, operate, and showcase roadway deployments featuring applications enabled by V2X.

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<sup>1</sup>Please note that Under Secretary Monje retired from the Office of the Secretary (OST) effective April 5, 2024. This response is provided on behalf of OST.

<sup>2</sup>DOT, *SAVING LIVES WITH CONNECTIVITY: A PLAN TO ACCELERATE V2X DEPLOYMENT*, (Oct. 2023), available at [https://www.its.dot.gov/research\\_areas/emerging\\_tech/pdf/Accelerate\\_V2X\\_Deployment.pdf](https://www.its.dot.gov/research_areas/emerging_tech/pdf/Accelerate_V2X_Deployment.pdf).

<sup>3</sup>*Id.*

<sup>4</sup>NRSS Action Tracking Dashboard

<sup>5</sup><https://www.its.dot.gov/pilots/>

<sup>6</sup>See <https://www.grants.gov/search-results-detail/350731>.

Additionally, DOT has awarded discretionary grants totaling more than \$100 million in the past ten years to state and local transportation organizations to support V2X and connected vehicle deployment through programs such as Connected Vehicle Pilots, Better Utilizing Investments to Leverage Development (BUILD), Advanced Transportation Technologies and Innovative Mobility Development (ATTIMD)/Advanced Transportation Technology and Innovation (ATTAIN), and Strengthening Mobility and Revolutionizing Transportation (SMART).

Departmental support also includes addressing critical technical issues and building a cohesive structure for interoperable deployments across the Nation. For example, DOT established the Accelerating V2X Cohort, which currently has 31 entities as members and serves as a platform for public agencies engaged in active V2X deployment projects. These agencies exchange insights and share best practices and lessons learned, contributing to the advancement of interoperable V2X technologies.

*Question 2.* In May 2023, the personally identifiable information of 237,000 current or former DOT employees was exposed as part of a cyberattack.<sup>7</sup> At a June briefing on this topic, Cordell Schachter, the Department's Chief Information Officer (CIO), committed to providing Members with information about the Department's cyber modernization plan, as well as funding and staffing needs.<sup>8</sup> In September, Secretary Buttigieg also expressed his willingness to work with the Committee to provide this information.<sup>9</sup> When will the Department provide the requested information? Further how does the Department justify its extended delay in responding to Members of the Committee?

*ANSWER.* In addition to briefing Committee Members and staff on the Adobe Cold Fusion cyberattack on DOT and related issues, the Department provided a full written response to the Committee, including documentation of DOT's cyber-modernization initiatives, by letter dated December 15, 2023. Copies of that letter and documentation are attached for the convenience of the Committee.

QUESTION TO HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. CHRIS PAPPAS

*Question 1.* The Recreational Trails Program (RTP) continues to fund and maintain trails throughout the country, which is in close alignment with this Administration's commitment to outdoor recreation.

Can you describe the Department's commitment to this important program?

*ANSWER.* As part of the America the Beautiful initiative, DOT recognizes the Recreational Trails Program (RTP) as supporting states in developing, maintaining, and improving access to park and recreation facilities for both nonmotorized and motorized recreational trail users. The Department is committed to outdoor recreation efforts, and FHWA has published numerous guidance documents and other publications that are available to stakeholders on its website on a wide range of topics, such as trails and resilience and electric bicycles. FHWA is coordinating with the U.S. Forest Service to provide Forest Service publications and videos to the public and is working with the American Association of State Highway and Transportation Officials (AASHTO) to develop training on transportation and trail networks.

QUESTION TO HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. ROBERT MENENDEZ

*Question 1.* The National Renewable Energy Laboratory predicts that the U.S. is going to require nearly 1.1 million additional public EV charging stations to support 50 percent of EV sales by 2030. Presently, the U.S. has just over 150,000 publicly available chargers. This would require over 400 public chargers to be installed every day to meet future need.

<sup>7</sup> Email from Ass't Sec'y for Governmental Affairs, DOT, to Staff, H. Comm. on Transp. and Infrastructure, (May 12, 2023, 4:24 p.m. EST) (on file with Comm.); see also DOT, UPDATE TO CONGRESS ON DOT BREACH (2023) (on file with Comm.) [hereinafter Supplemental Report].

<sup>8</sup> Briefing from DOT, CIO to H. Comm. on Transp. and Infrastructure Staff (June 7, 2023).

<sup>9</sup> *Oversight of the Department of Transportation's Policies and Programs: Hearing Before the H. Comm. on Transp. and Infrastructure*, 118th Cong. (2023).

The Bipartisan Infrastructure Law signed into law in 2021 provided up to \$7.5 billion in funding for EV charging stations to support increased fleet electrification. However, installation of public chargers has been slower than expected with only two sites opened in Ohio and New York.

Acting NHTSA Administrator Carlson and Under Secretary Monje, what are DOT and other federal agencies doing to facilitate the necessary increase in charging infrastructure?

*ANSWER.* Since the President took office, the number of publicly available charging ports has grown by over 90 percent, with over 186,000 publicly available EV charging ports across the country as of June 25. Our programs are accelerating private sector investment that puts us on track to deploy 500,000 charging ports ahead of schedule and continue to expand a convenient and reliable charging network. Under President Biden's leadership, electric vehicle (EV) sales have more than quadrupled, and more than 4 million EVs are now on the road. Spurred by the President's historic investments, private companies have announced more than \$177 billion in the EV and battery supply chain under the Biden-Harris Administration. EVs are critical to our rapid and equitable transition to clean transportation systems, producing zero tailpipe emissions, reducing air pollution and greenhouse gas emissions—major contributors to climate change and key contributors to respiratory ailments.

The BIL provides FHWA with \$7.5 billion in Federal funding for the construction of publicly accessible electric vehicle (EV) chargers and alternative fueling infrastructure. These targeted investments complement the tens of billions in Federal and private sector funding that is building out a national EV charging network, and support good paying jobs across the country installing, maintaining, and repairing EV infrastructure. FHWA, in collaboration with the Joint Office of Energy and Transportation (Joint Office), continues to work with States and other recipients as they access the funding from the National Electric Vehicle Infrastructure (NEVI) Formula Program and the Charging and Fueling Infrastructure (CFI) Discretionary Grant Program. Each State was required to submit an update to their EV Infrastructure Deployment Plan by August 1, 2023. FHWA approved all EV charging plans from States, Puerto Rico, and the District of Columbia, unlocking approximately \$885 million in FY 2024 NEVI formula funding to implement those plans.

The BIL established the first-ever formula program for EV charging infrastructure through the NEVI Formula Program. The NEVI Formula Program will help States create a network of EV charging stations along designated Alternative Fuel Corridors, particularly along the Interstate Highway System. EV charging stations funded by the Bipartisan Infrastructure Law have been opened in six States: Hawaii, Ohio, New York, Pennsylvania, Maine, and Vermont, with EV chargers in more States expected to come online soon.

On January 11, 2024, the Biden-Harris Administration announced \$623 million in grants to help build out an EV charging network across the U.S., which will create American jobs and ensure more drivers can charge their electric vehicles where they live, work, and shop. The grants being announced are made possible by the BIL's \$2.5 billion CFI Discretionary Grant Program, a competitive funding program, and will fund 47 EV charging and alternative-fueling infrastructure projects in 22 states and Puerto Rico, including construction of approximately 7,500 EV charging ports.

On January 18, 2024, the Biden-Harris Administration announced it is awarding nearly \$150 million to 24 grant recipients in 20 states to repair or replace nearly 4,500 existing EV charging ports. Under the NEVI Formula Program, 10% of the funding is set-aside for grants to States or localities that require additional assistance to strategically deploy EV charging infrastructure. This first round of funding focuses on improving the reliability and accessibility of the current network by repairing or replacing existing EV charging infrastructure.

FHWA is working with recipients to execute grant agreements as expeditiously as possible, which will translate into more ports available to drivers of EVs. We issued the NOFO for the second round of funding for these two programs on May 30, 2024.

BIL also established the Joint Office, which is charged with studying, planning, coordinating, and implementing issues of joint concern between the Departments of Energy and Transportation. The Joint Office provides technical assistance related to the deployment, operation, and maintenance of zero emission vehicle charging and refueling infrastructure, renewable energy generation, vehicle to grid integration, including microgrids, and related programs and policies.

When you combine public and private investment, more than \$25 billion of investment in U.S. EV charging has been announced to date. According to a recent analysis from the Department of Energy, that puts us on a path to deliver nearly 1.2 million public chargers by 2030—keeping pace with ever-growing EV adoption. That

includes charging infrastructure that's made in America—companies have announced more than 1 million chargers per year of manufacturing capacity since President Biden took office.

QUESTION TO HON. CARLOS MONJE, JR., UNDER SECRETARY OF TRANSPORTATION FOR POLICY, OFFICE OF THE SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. COLIN Z. ALLRED

*Question 1.* The Austin Transit Partnership recently visited my office. They are looking to bring light rail to Austin and ultimately connect it to the Austin Airport. ATP sees an opportunity for the modal agencies within DOT to work more collaboratively to issue transportation funding when a project like this offers many benefits to Austin, the airport, and the regional transportation network.

Can DOT recommend funding streams that break down the airport/transit barrier?

*ANSWER.* Rail capital projects are eligible for multiple FTA and DOT grant programs, such as Capital Investment Grants, and these projects may certainly include a connection to an airport. It is important to note that any FTA-funded project must meet the definition of public transportation in 49 U.S.C. 5302, namely that the transit service must be open to the general public; it is not permissible to limit any part of the service only to ticketed airport passengers, for example.

While often not feasible and seldom used, funds from the Airport Improvement Program (AIP), Bipartisan Infrastructure Law (BIL), and Passenger Facility Charge (PFC) can potentially help for the on-airport portions of a rail system that bring people to and from the airport. In addition, in 2021, the Federal Aviation Administration (FAA) issued an update to its Passenger Facility Charge (PFC) program in PFC Update 75–21 Eligibility of On-Airport Rail Access Projects to allow an airport to collect and use PFC revenues for a portion of a rail access project, even if the rail project in its entirety serves more than exclusively airport traffic.

QUESTIONS TO HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. ERIC A. “RICK” CRAWFORD

*Question 1.* Section 13002 of the Infrastructure Investment and Jobs Act (IIJA, P.L. 117–58) required the formation of the Federal System Funding Alternative Advisory Board (Advisory Board). As you know, the Advisory Board was to have been established “not later than 90 days after the date of enactment of this Act.” The date of enactment was November 15, 2021.

Notwithstanding this deadline indicating Congressional urgency, the Department of Transportation (DOT or Department) charted the Advisory Board on September 20, 2023, and, on October 3, 2023, issued a call for membership applications by November 22, 2023.<sup>1</sup> Therefore, it was disappointing to read in the article *EV Growth Raises Road-Funding Concerns as Mileage-Fee Pilot Lags*, that your program officer seems to lack a sense of urgency, as he “doesn’t know how I am going to do the pilot test right now because I don’t know.”<sup>2</sup> What was meant by this quote? Was the quote inaccurate? Please describe the Department’s plan to ensure its employees are appropriately and adequately trained to implement Congressional mandates. Further, please provide the Subcommittee with an update on the status of this IIJA-mandated provision.

*ANSWER.* DOT has taken a number of steps to implement Section 13002 of the Infrastructure Investment and Jobs Act (P.L. 117–58; IIJA, also referred to as the Bipartisan Infrastructure Law or BIL).

The employee’s unofficial remarks are not indicative or reflective of the Department’s official position and perspectives, but the statement recognizes the U.S. Department of Transportation’s responsibility to coordinate with the Secretary of the

<sup>1</sup> See Email from OST, DOT to Staff, H. Comm. on Transp. and Infrastructure (Sept. 21, 2023 9:18 a.m.); see also Request for Nominations for the Federal System Funding Alternative Advisory Board to the Federal Highway Administration, 88 Fed. Reg. 68272 (Oct. 3, 2023), available at <https://www.federalregister.gov/documents/2023/10/03/2023-21745/request-for-nominations-for-the-federal-system-funding-alternative-advisory-board-to-the-federal>.

<sup>2</sup> Lillianna Byington, *EV Growth Raises Road-Funding Concerns as Mileage-Fee Pilot Lags*, BLOOMBERG GOV’T, (Nov. 1, 2023), available at <https://news.bgov.com/bloomberg-government-news/ev-growth-raises-road-funding-concerns-as-mileage-fee-pilot-lags>.

Treasury, and consistent with the recommendations of the Advisory Board, establish the pilot program, as required by Section 13002. That sentiment could have been articulated more clearly.

Per the requirements of Section 13002(g), the Federal System Funding Alternative Advisory Board was established on September 20, 2023. The charter and other information regarding the Advisory Board is available to the public at the Federal Advisory Committee Act (FACA) Database (<https://www.facadatabase.gov/FACA/s/>).

The request for nominations for Advisory Board membership was published in the Federal Register on October 3, 2023 (88 FR 68272). The deadline for nominations was November 17, 2023. Over 70 nominations were received by the deadline. The Advisory Board nominations are currently under review. Advisory Board members will be appointed by the Secretary of Transportation.

FHWA is preparing for the Advisory Board and gathering relevant data and lessons learned that can inform the Board's deliberations. There is also work underway to develop a framework for a National Motor Vehicle Per-Mile User Fee Pilot implementation plan. FHWA is coordinating with the U.S. Department of the Treasury to identify options for collecting motor vehicle per-mile user fees from volunteer pilot participants, ensuring revenue collected under the pilot is deposited in the Highway Trust Fund, and issuing payments to volunteer participants as needed. As directed by BIL Section 13002, the Advisory Board's recommendations on the structure, scope, and methodology of the Pilot are integral to its establishment. Therefore, current preparations for the Pilot remain flexible, pending recommendations from the Advisory Board.

*Question 2.* I have always been a proponent of Buy America, and I support IJA's expansion of Buy America provisions. However, I also understand that some products are currently not produced at all in the United States, and these may require temporary waivers until United States production ramps up. It is especially important that these waivers are posted, so that states, contractors, and other stakeholders are aware of what products or materials have a waiver.

In May 2021, the Illinois Department of Transportation submitted a Buy America Waiver request following a three-year Nationwide search for a domestic submersible pump that met Buy America requirements. However, it took DOT two years before it put it out for comment.<sup>3</sup>

*Question 2.a.* Why did the waiver process take so long—and why did it take two years for it to be published?

*ANSWER.* FHWA's Illinois Division Office received the waiver from the Illinois Department of Transportation (IDOT) in May 2021. The Illinois Division Office reviewed the waiver request to determine whether IDOT demonstrated sufficient due diligence to locate a domestic supplier who could meet FHWA's Buy America requirements. Finding the waiver request sufficient, the Illinois Division Office then provided the waiver for review by FHWA Headquarters.

Around the time that IDOT submitted the waiver request, there were two major changes to the Buy America waiver process. In January 2021, the President signed Executive Order (E.O.) 14005, which established the Made in America Office (MIAO) within the Office of Management and Budget (OMB). Section 4 of this E.O. required MIAO to set up a process under which MIAO would review proposed waivers and instructed MIAO to determine what information Federal agencies should provide to the Office when submitting proposed waivers for review. Then, on November 15, 2021, the President signed the Bipartisan Infrastructure Law (P.L. 117-58) into law, which included the Build America, Buy America Act (BABA) at §§ 70901-70927. BABA set forth new requirements regarding waivers of Buy America laws. For instance, under section 70916(c) of BABA, before granting a waiver, FHWA must consult with the Hollings Manufacturing Extension Partnership (MEP) regarding whether there is a domestic entity that could provide the materials that are the subject of the proposed waiver. Continuing the policy of E.O. 14005, section 70923(b)(2) of BABA also required MIAO to develop and implement procedures to review waiver requests related to Buy America waivers. These procedures were provided in OMB Memorandum M-22-11 (Apr. 18, 2022), which also set out several types of waivers that Federal agencies could consider issuing, including de minimis, small grants, and minor components waivers. See OMB Memorandum M-22-11, at 11. Accordingly, on November 10, 2022, DOT posted a proposed waiver request on its website that would waive the application of Buy America preferences on Federal

<sup>3</sup>DOT, FHWA, Construction, Notice of Buy America Waiver Request, (last accessed Jan. 2, 2023), available at <https://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=175>.

awards when de minimis foreign material was used in the project, for small grants, and when miscellaneous minor components were used in the project.

DOT and FHWA believed that these waivers of general applicability would cover many of the products that FHWA had previously received waiver requests for. For example, FHWA initially believed that the actual amount of non-compliant foreign steel in the pumps that IDOT sought a waiver for could be less than the proposed 5 percent of total applicable cost threshold in the proposed de minimis waiver, which would have allowed the pumps to be purchased under this waiver. DOT and FHWA thus determined it was more beneficial to focus predominantly on these general waivers rather than divert attention to process project-specific waivers on a one-by-one basis. Ultimately, after reviewing comments and in consultation with MIAO, on August 16, 2023, DOT issued the Department-wide waiver of Buy America requirements for de minimis costs and small grants. After reviewing comments received and consulting with MIAO, DOT ultimately believed it most prudent to have the waiver be as narrow as possible. For that reason, DOT decided that the de minimis waiver would not apply to iron and steel subject to the requirements of 23 U.S.C. 313 on financial assistance administered by FHWA; instead, FHWA would continue to apply the de minimis provision in 23 CFR 645.410(b)(4).

Upon the recognition that the IDOT Buy America waiver request would not be covered by the final versions of the de minimis or small grants waivers, FHWA moved to propose a waiver request for the pumps on August 28, 2023, with a comment period ending on September 13, 2023. On August 31, during this comment period, FHWA received comments from a manufacturer that the manufacturer could produce a Buy America-compliant item. As a result, FHWA facilitated discussions between this manufacturer and IDOT, in which this manufacturer provided assurances that it could provide Buy America-compliant pumps to IDOT that met IDOT's specifications and IDOT would pursue a procurement from this manufacturer. FHWA thus determined that finalizing a waiver was inappropriate at that time but kept the notice of waiver request open pending confirmation that the manufacturer would be able to produce a satisfactory Buy America-compliant pump. On January 16, 2024, IDOT reported that the manufacturer could not produce a Buy America-compliant pump. FHWA has since been working on finalizing the waiver for IDOT.

*Question 2.b.* After you received this waiver request in May 2021, how long was it under consideration at the Federal Highway Administration (FHWA)?

*ANSWER.* As described in the response to the previous question, FHWA believed that this waiver could be covered under the Department-wide de minimis waiver from 2022 to 2023. In August 2023, once it became apparent that the pumps would not be covered by the de minimis waiver, FHWA worked with the Office of the Secretary (OST) to proceed with putting the proposed waiver out for public comment.

*Question 2.c.* On what date did FHWA send it to the Office of the Secretary (OST) for review, and how long was it under consideration by OST?

*ANSWER.* OST works with FHWA and all of the Department's Operating Administrations (OAs) in the development and posting of proposed waivers for public comment and reviews waivers issued by the OAs once they are ready to be finalized. OST assisted in the cross posting of this proposed waiver on [MadeinAmerica.gov](https://www.madeinamerica.gov) and the DOT Made in America site.<sup>4</sup> OST received the draft final waiver from FHWA on April 19, 2024, and transmitted it to MIAO on May 13, 2024.

*Question 2.d.* On what date did OST send it to the Office of Management and Budget (OMB) for review, and on what date did OMB issue a final decision?

*ANSWER.* The final waiver notice has been submitted to the Made in America Office within OMB and is currently under their review.

*Question 2.e.* Please detail how DOT was evaluating the Buy America Waiver request as the Illinois Department of Transportation waited on the waiver to be noticed.

*ANSWER.* FHWA evaluates waivers to ensure that the justification for the waiver, whether on the basis of public interest or non-availability, is appropriate. In the case of the IDOT waiver, which was sought on the basis of non-availability, FHWA reviewed the efforts made by IDOT to locate a domestically manufactured product and whether it was possible to re-design the project using a Buy America-compliant product. FHWA also evaluated the information required for draft final waivers submitted to MIAO, as laid out in OMB Memorandum M-22-11 [<https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>] and its successor, OMB Memorandum M-24-02 (Oct. 25, 2023) [[<sup>4</sup> <https://www.transportation.gov/office-policy/transportation-policy/made-in-america>](https://www.whitehouse.gov/wp-con-</a></p>
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tent/uploads/2023/10/M-24-02-Buy-America-Implementation-Guidance-Update.pdf]. This waiver includes information on market research conducted, such as details on who conducted the research, when it was conducted, sources that were used, and methods used to conduct the research.

In addition, in accordance with section 70916(c) of BIL, FHWA consulted with the Hollings Manufacturing Extension Partnership (MEP) to determine whether domestic manufacturers could produce Buy America-compliant pumps required by IDOT. In coordination with its Illinois Division Office, FHWA used MEP's supplier scouting process to attempt to identify any domestic manufacturers that would remove the need for a waiver, although this ultimately proved unsuccessful.

**QUESTIONS TO HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. JEFFERSON VAN DREW**

*Question 1.* OMB issued its final guidance implementing the Build America, Buy America Act (BABAA) in August. The guidance allows agencies to provide additional agency specific guidance where necessary.

What, if any, FHWA guidance might be issued to address FHWA specific issues?

*ANSWER.* FHWA plays a critical role in ensuring the effective implementation of the Build America, Buy America Act (BABA). We regularly update the frequently asked questions section of the FHWA Buy America website<sup>5</sup> to ensure stakeholders have access to the latest guidance and interpretations regarding BABA provisions. This helps clarify any uncertainties and assists stakeholders in effectively adhering to the regulations.

*Question 2.* The FHWA has had in place a manufactured product waiver for Buy America for many years. The BABAA requires preexisting waivers such as the FHWA manufactured product waiver to be reissued to meet or exceed BABAA's requirements.

Will FHWA reissue its manufactured products waiver?

*ANSWER.* FHWA published its review of its existing general applicability waivers via a request for comment in the Federal Register on March 17, 2023, soliciting comments on FHWA's long-standing general waiver for manufactured products, with the comment period ending May 22, 2023. In September 2023, DOT announced its plans to publish a Notice of Proposed Rulemaking (NPRM) on the application of Buy America to manufactured products. This rulemaking would consider withdrawing the 1983 waiver of Buy America requirements for manufactured products while also proposing standards and requirements to determine the extent to which a manufactured product must comply with Buy America. FHWA published an NPRM on March 12, 2024, proposing to discontinue its general waiver of Buy America requirements for manufactured products. The comment period closed on May 13, 2024, and FHWA is currently reviewing comments.

*Question 3.* Can you provide an update on the implementation of the ROCKS Act?

*ANSWER.* The Working Group on Covered Resources was established in accordance with Section 11526 of the Bipartisan Infrastructure Law and the Federal Advisory Committee Act (chapter 10 of title 5, United States Code), on October 5, 2023. The committee and its charter are now posted to GSA's FACA database. FHWA published a notice in the Federal Register soliciting membership to the Working Group on January 9, 2024. The deadline for nominations was March 11, 2024. We are currently reviewing the nominations. Working Group members will be appointed by the Secretary of Transportation.

**QUESTIONS TO HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. CHRIS PAPPAS**

*Question 1.* The Recreational Trails Program (RTP), which funds the development and maintenance of motorized and non-motorized, has provided funding for hundreds of projects across New Hampshire over the past decade. The RTP is premised on funding by non-highway recreational fuel taxes being used in support of the nation's trails. In July 2021, the Department of Transportation submitted a report to Congress that indicated:

<sup>5</sup> [https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)

“... for the past 3 years for which data are available [calendar years 2016 to 2018], the estimated amount of taxes on non-highway use of recreational vehicles is \$843,422,069 (average of \$281,140,690/year). The annual funding amount provided by the Fixing America’s Surface Transportation Act for the Recreational Trails program is approximately \$84 million.”

Would FHWA support reducing the gap between the revenues collected on taxes for non-highway use of recreational vehicles and what is annually appropriated to RTP?

*ANSWER.* The amount of funds set aside for each state for the Recreational Trails Program (RTP) is determined by statute. The Bipartisan Infrastructure Law (BIL) continued the RTP as a set-aside under the Transportation Alternatives (TA) Set-Aside. Per 23 U.S.C. §§ 133(h)(5) and 133(h)(6)(A), an amount equal to the State’s Fiscal Year 2009 RTP apportionment is set aside from the state’s TA Set-Aside funds for recreational trails projects unless the state opts out. Recreational trails provide safe, accessible, equitable, and comfortable connections for transportation and recreation networks and are part of a resilient transportation system. The RTP supports various trail uses, encourages trail user cooperation, and drives economic development in both urban and rural communities.

In addition to RTP, several formula and discretionary programs are available for trail and related projects. FHWA published a comprehensive Pedestrian and Bicycle Funding Opportunities [[https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/funding/funding\\_opportunities.pdf](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/funding/funding_opportunities.pdf)] table to highlight potential eligibility for pedestrian and bicycle activities and projects under DOT surface transportation funding programs.

*Question 2.* I am a strong supporter of Build America, Buy America (BABA) provisions, which help safeguard American jobs, foster economic growth, and enhance our national security. On October 23, 2023, the Office of Management and Budget (OMB) implemented updated BABA guidance to reflect the provisions included in the Infrastructure Investment and Jobs Act, such as new BABA coverage for construction materials. As federal agencies implement this updated guidance, it’s critical that the guidance is clear and consistent; however, I have heard concerns regarding the lack of uniformity in states’ implementation of BABA rules. Even slight differences in the implementation of BABA provisions among state Departments of Transportation (State DOTs) can cause significant confusion and may even lead to project cost increases due to higher compliance costs.

What, if anything, is FHWA doing to ensure that State DOTs implement updated BABA standards in as uniform a manner as possible to provide the construction industry with certainty and avoid having to navigate slightly different expectations and standards? Does FHWA plan to issue complementary guidance for construction materials in addition to OMB’s final guidance? If so, when does FHWA expect to issue such information or guidance?

*ANSWER.* FHWA plays a critical role in ensuring the effective implementation of the Build America, Buy America Act (BABA). Timely guidance to address FHWA-specific issues and facilitate compliance among stakeholders is important for implementing this legislation and promoting domestic manufacturing and infrastructure development. We regularly update the frequently asked questions section of the FHWA Buy America website<sup>6</sup> to ensure stakeholders have access to the latest guidance and interpretations regarding BABA provisions. This helps clarify any uncertainties and assists stakeholders in effectively adhering to the regulations.

**QUESTION TO HON. SHAILEN BHATT, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. JAKE AUCHINCLOSS**

*Question 1.* Administrator Bhatt, this New York Times piece also notes that the deadliest kinds of roads are “those with multiple lanes and higher speed limits but few crosswalks or sidewalks.”<sup>†</sup> The Complete Streets Approach within the Federal Highway Administration (FHWA) promotes safety for both pedestrians and drivers by focusing on people—not the transportation mode.

How is FHWA prioritizing the Complete Streets approach within IIJA implementation?

<sup>6</sup> [https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)

<sup>†</sup> Editor’s note: See pages 96–100.

*ANSWER.* The Department shares concern about recent increases in roadway fatalities, including those among cyclists and pedestrians, and agrees that the adoption of a Complete Streets Design Model can help make streets safer for all users.

The recent increase in roadway fatalities is a safety challenge that can and should be addressed by implementing the National Roadway Safety Strategy (NRSS). One significant way FHWA is advancing the Safer Roads and Safer Speeds elements of the NRSS is through its Complete Streets initiative. Thirty-seven States and more than 1,700 communities in the United States have adopted Complete Streets policies to ensure the safety of all users in transportation projects. The BIL supports development of additional policies and planning for complete streets-related policy implementation with the required (§ 11206) set aside of State Planning and Research (SPR) and Metropolitan Planning (PL) funds for complete streets planning activities.

FHWA also issued a waiver of the non-Federal match requirement to incentivize State Departments of Transportation (DOTs) and metropolitan planning organizations (MPOs) to prioritize Complete Streets planning, considering the unique safety and mobility needs of communities. The goal is to ensure that resources are allocated in line with these needs when developing statewide and metropolitan long-range transportation plans and transportation improvement programs to guide future investment decisions. Additionally, FHWA issued guidance on implementing this provision and other BIL provisions that support safety for all users, including 23 U.S.C. 217. (See *Increasing Safe and Accessible Transportation Options Implementation Guidance*<sup>7</sup> and *Bicycle and Pedestrian Planning, Program, and Project Development Guidance*<sup>8</sup>).

Thanks to BIL, these and all communities looking to improve safety can receive funding to plan and build out safe and connected multimodal networks through several discretionary grant programs such as the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program, Safe Streets and Roads for All (SS4A) grant program, Reconnecting Communities Pilot Program, and the Tribal Transportation Safety Fund Program, as well as formula programs such as the Highway Safety Improvement Program (HSIP), Surface Transportation Block Grant Program, Transportation Alternatives Set-Aside, Congestion Mitigation and Air Quality Improvement Program, and Carbon Reduction Program. To date these programs are providing billions of dollars to improve safety. SS4A alone has provided \$1.7 billion in Federal funding to over 1,000 communities in all 50 States and Puerto Rico. SS4A funding awarded to date will improve roadway safety planning for about 70 percent of the Nation's population.

As required by BIL, every State has now finalized their Vulnerable Road User (VRU) Safety Assessment. These assessments each include a program of projects or strategies which will be invaluable in addressing safety for those who walk, bike, and roll. Many States are also now required to use 15% of their HSIP funds on VRU safety projects.

FHWA encourages State and local agencies to explore various Federal funding sources to enhance roadway safety and take a Safe System Approach. For instance, FHWA issued updated guidance for reviewing State Geometric Design Procedures or Design Criteria for "3R" projects (resurfacing, restoration, and rehabilitation) on the National Highway System. The update provides guidance on how to use 3R projects to improve safety on roadways at little additional cost and identifies such projects as a key strategy for improving safe access for all road users. FHWA also issued guidance on statutory flexibilities for local jurisdictions developing Federal-aid projects on roadways under their ownership that can allow these jurisdictions to effectively address roadway safety concerns using alternate roadway design guides. FHWA also used the authority granted in section 11206(d) of BIL to allow States and MPOs to use SPR and PL funds to cover 100 percent of the cost of Complete Streets planning activities. Utilizing SPR and PL funds for Complete Streets planning can effectively integrate safety considerations into transportation planning processes.

With the availability of Federal funding and demand increasing to address safety for all users, FHWA is offering implementation support to States and communities through new technical assistance resources, trainings, and peer exchanges, including information on how to implement elements of the Complete Streets Design Model<sup>9</sup>. For example, given the significant role of speed in fatal crashes, FHWA is

<sup>7</sup> [https://www.fhwa.dot.gov/planning/iija-bil\\_sect11206\\_imp\\_guidance.pdf](https://www.fhwa.dot.gov/planning/iija-bil_sect11206_imp_guidance.pdf)

<sup>8</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/guidance\\_2023.pdf](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/guidance_2023.pdf)

<sup>9</sup> <https://highways.dot.gov/complete-streets>

introducing new resources on speed limit setting and roadway re-engineering to facilitate self-enforcement of speed limits<sup>10</sup>.

To realize the goal of zero fatalities on the Nation's roads, FHWA encourages States to evaluate safety outcomes for all project types and enhance safety for all road users, especially people walking, rolling, bicycling, and using transit. FHWA collaborated with FTA to publish a guide to *Improving Safety for Pedestrians and Bicyclists Accessing Transit*<sup>11</sup>, intended for transit agencies, State and local roadway owners, and regional organizations involved with planning and designing transit stops. FHWA completed the International Benchmarking Study Report, *Improving Pedestrian Safety on Urban Arterials: Learning from Australasia*<sup>12</sup>, and widely promoted its findings on the success of Australia and New Zealand in dramatically reducing pedestrian fatalities with planning, project delivery, and countermeasure advances. FHWA hosted a series of webinars, and workshops and presentations at the 2024 Transportation Research Board (TRB) Annual Meeting and other conferences, with additional targeted outreach planned.

FHWA also recommends maximizing existing right-of-way to accommodate non-motorized modes and transit options, thereby improving safety and helping create safe networks to reach destinations in a variety of ways.

FHWA encourages the use of proven safety countermeasures<sup>13</sup> and emphasizes that pedestrian facilities in public rights-of-way must comply with the Americans with Disabilities Act. FHWA is also helping agencies learn from each other. We published case studies<sup>14</sup> to share notable examples of Complete Streets funding, integration of National Environmental Policy Act (NEPA), and inclusion of Complete Streets in the planning process. We are also using what we learned from a survey of State implementation of Complete Streets<sup>15</sup> policies to develop targeted technical assistance and coordination of peer exchanges on Complete Streets implementation at the State level.

#### QUESTIONS TO HON. NURIA I. FERNANDEZ, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION,<sup>1</sup> FROM HON. ERIC A. "RICK" CRAWFORD

*Question 1.* As you are aware, the Federal Transit Administration (FTA) imposes a 'spare ratio' requirement for public transit agencies that requires them to set aside a percentage of their fleet as reserve rolling stock.<sup>2</sup> For every fixed-route bus in a fleet, an agency must maintain one bus—or 20 percent—as a spare vehicle.<sup>3</sup> The Biden Administration has been using every tool possible to urge or incentivize transit agencies into shifting their fleets to electric, but many stakeholders have highlighted the difficulty this reserve requirement poses in light of the costs and challenges inherent with electric buses.

Electric Vehicle (EV) buses have neither the range capacity of traditional buses, nor do they offer the same reliability of service in different weather and climates. It takes additional electric buses to meet existing route demands and the maintenance costs are higher. This spare ratio requirement ends up contributing to keeping vehicles in active service well beyond their useful lifespan and, again, higher costs overall for the agencies.

*Question 1.a.* Is FTA considering any changes to the Agency's spare ratio requirements in light of the range and cost challenges posed by greater EV bus adoption? If yes, please describe the changes being considered.

*ANSWER.* Governmentwide requirements in 2 CFR part 200 require that recipients use equipment purchased with Federal funds for its intended purpose and avoid the acquisition of unnecessary or duplicative items. In this case transit rolling stock (vehicles) are required to be used to provide public transportation services. FTA recognizes that transit agency operations require some number of spare vehicles in the

<sup>10</sup> <https://highways.dot.gov/safety/speed-management/reference-materials>

<sup>11</sup> [https://safety.fhwa.dot.gov/ped\\_bike/ped\\_transit/fhwasa21130\\_PedBike\\_Access\\_to\\_transit.pdf](https://safety.fhwa.dot.gov/ped_bike/ped_transit/fhwasa21130_PedBike_Access_to_transit.pdf)

<sup>12</sup> <https://international.fhwa.dot.gov/programs/mrp/docs/FHWA-PL-23-006.pdf>

<sup>13</sup> <https://highways.dot.gov/safety/proven-safety-countermeasures>

<sup>14</sup> <https://highways.dot.gov/complete-streets/implement-complete-streets-improvements>

<sup>15</sup> <https://highways.dot.gov/research/projects/fhwa-national-complete-streets-assessment>

<sup>1</sup> Please note that Administrator Fernandez retired from the Federal Transit Administration (FTA) effective February 24, 2024. This response is provided on behalf of FTA.

<sup>2</sup> DOT, FTA, Circular 5010.1E, Award Management Requirements (Rev. 2 July 16, 2018), available at <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/fta-circulars/58051/5010-1e-circular-award-management-requirements-7-16-18.pdf>.

<sup>3</sup> *Id.*

event of breakdowns, for maintenance needs, or for a temporary surge in operations. Although FTA does not require agencies to procure spare vehicles, FTA's spare ratio policy (Award Management Requirements Circular 5010 <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>) permits recipients to use federal funds to acquire a reasonable number of spare vehicles based on operational needs. For recipients operating 50 or more fixed-route revenue vehicles, agencies are permitted to acquire additional vehicles up to 20 percent of the vehicles operated in maximum fixed-route service. For example, if an agency operates 100 vehicles during peak hours, it may have an additional 20 spare vehicles for a total of 120 vehicles. FTA has not set a specific spare ratio for recipients operating 49 or fewer fixed-route revenue vehicles, but expects the number to be reasonable.

FTA has a number of flexibilities built into its spare ratio policy, which we encourage our grantees to work with their FTA regional office to take advantage of. For example, if an agency is introducing zero emission vehicles into its fleet, they may keep any vehicles that are past their useful life in the agency's contingency fleet, and those vehicles in the contingency fleet do not count against the spare ratio. If an agency determines additional vehicles are required during the peak hour, it may procure those vehicles, and the number of spare vehicles permissible would also increase. For example, if it now requires 110 vehicles to operate during peak service, an agency may have an additional 22 spare vehicles, for a total of 132 vehicles, again not counting any contingency vehicles. FTA recently updated the Spare Ratio FAQ [<https://www.transit.dot.gov/funding/procurement/third-party-procurement/spare-ratio>] to provide more guidance on the flexibilities available.

*Question 1.b.* What additional steps is FTA taking to accommodate the divergent transit needs of smaller and rural communities who may be pursuing some transition to electric vehicles?

*ANSWER.* FTA funds technical assistance centers that serve smaller, rural, and Tribal operators, such as the National Center for Applied Transit Technology (N-CATT), whose purpose is to provide such agencies with practical resources for replicable technological solutions and innovations. N-CATT has produced tools and resources for agencies considering or implementing a transition to a low- or no-emission bus fleet. In addition, any transit agency can receive technical assistance toward fleet transition through the Joint Office of Energy and Transportation, which BIL created to facilitate collaboration between DOT and the U.S. Department of Energy.

*Question 2.* According to the Bureau of Transportation Statistics (BTS) data, monthly transit ridership reached an all-time high of nearly 987,000 people in October 2014, almost a decade ago.<sup>4</sup> Current data shows those numbers remain well below historic norms and, while on an upward track, could still take years before they return to normal levels, if they ever do at all.<sup>5</sup> Many transit agencies have instituted various 'free fare' programs to entice select groups of riders or increase ridership during specific timeframes.

*Question 2.a.* Does FTA have any data detailing the share of revenue-generating riders versus transit riders that do not pay for the service for funding recipients?

*ANSWER.* No, FTA does not specifically collect data that delineates fare-free vs. paid fare riders. However, FTA collects aggregate fare revenue data at the level of mode (e.g., motorbus) and type of service (e.g., directly operated). Using FTA data, it is possible to see at a high level if an agency collected zero fares for a given mode and type of service level, but not more detailed levels of analysis than this (e.g., if some but not all trips within one of the mode's routes were fare free).

*Question 2.b.* If not, does the Agency have the capability to collect that? If so, does this information impact any other agency metrics used to determine grant qualification or funding decisions?

*ANSWER.* FTA's National Transit Database (NTD) does not currently collect data at a sufficiently detailed level to separate trips that are fare free vs. paid fares. Currently, fare revenue is not directly relevant to apportionment. Thus, FTA does not require that agencies report whether all or some of their trips are fare free. It is possible to identify those modes and types of services that are fare free by querying those systems that report zero total fare revenue.

<sup>4</sup>See ECONOMIC RESEARCH, FRED, ECONOMIC DATA, ST. LOUIS FED, *Public Transit Ridership*, (last accessed Jan. 2, 2024), available at <https://fred.stlouisfed.org/series/TRANSIT>.

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

Recovery ratio, or the percentage of operating costs covered by fares collected, does not impact the qualification for or allocation of formula funds generated by an agency.

FTA could collect these additional details, noting that these data would be likely burdensome to the transit community. Specifically, it would be possible for FTA to one day collect data about fare collection at the route level, but it would likely entail an additional burden for agencies receiving FTA funds.

*Question 2.c.* IIJA funds provided FTA with a 77 percent increase in overall spending authority.<sup>6</sup> Does FTA have any rules or regulations governing when and how a funding recipient may offer free rides—or is there any limit or cap to those offerings? If yes, please provide a copy of the rules or regulations.

*ANSWER.* No, FTA does not have any rules or regulations which determine when and how a funding recipient may offer free rides, or rules limiting or capping those offerings. By law, FTA is prohibited from regulating fares.

**QUESTION TO HON. NURIA I. FERNANDEZ, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. MARILYN STRICKLAND**

*Question 1.* The number of hydrogen fuel cell electric transit buses is growing in fleets across the county. Intercity Transit in my district is bringing 5 of these vehicles into service in 2024 or 2025. Among other benefits, hydrogen fuel cell electric buses offer a range of advantages over other zero-emission buses.

What is FTA doing to promote and support this zero-emission technology?

*ANSWER.* Hydrogen fuel cell buses are eligible and have been selected under FTA's Buses and Bus Facilities and Low or No Emission Grant competitive grant programs.

FTA's Transit Vehicle Innovation Deployment Centers (TVIDC) program funds research for the advancement, production, and deployment of advanced vehicle technologies and infrastructure within the public transportation sector, including hydrogen fuel cell technologies. Additionally, the Low or No Emission Vehicle Component Assessment Program (LoNo CAP) Centers conduct testing, evaluation, and analysis of low or no emission vehicle components, and new and emerging technology components intended for use in low or no emission including hydrogen fuel cell vehicles. FTA is also working with the National Renewable Energy Laboratory (NREL), a laboratory owned by the U.S. Department of Energy (DOE), on Transit Fleet Electrification Technical Assistance and a LoNo Bus Selection Database Tool to assist transit agencies' transition to zero emission including hydrogen fuel cell buses. The National Transit Institute and Transit Workforce Center support training and workforce development that includes hydrogen fuel cell bus operations and maintenance as well. More specifically, the Transit Workforce Center has resources to help transit agencies develop their workforce planning as part of fleet transition plans and is also available to provide targeted support to agencies for their low or no emission bus transition workforce needs.

**QUESTIONS TO HON. NURIA I. FERNANDEZ, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. PATRICK RYAN**

*Question 1.* New York City's central business district tolling program is set to tax my constituents at least \$15 daily to show up for work. As part of the implementation of this tax, the New York Metropolitan Transportation Authority announced that it would not increase either the availability or frequency of public transit options into the central business district—a callous decision given that there is extremely limited MTA service in my district and the MTA does not provide a viable alternative to driving to work for my constituents. Specifically, Ulster County does not have an MTA station, there is no one-seat service in Orange County, and service in Dutchess County is limited.

Has the FTA reviewed or approved any grants which will increase the availability of public transportation options for these commuters? Has the FTA worked with New York City's MTA in its development of this plan? Is the FTA concerned that this version of congestion pricing, which detaches the tax from investment in public

<sup>6</sup>IIJA, Pub. L. No. 117–58, 135 Stat. 429.

transportation operations, will become the model for other cities who may explore congestion pricing as an option to fund municipal projects?

*ANSWER.* Congestion pricing is a state-led project. USDOT's role is the standard environmental review approval, which falls under the Federal Highway Administration (FHWA) for this program. The Federal Transit Administration (FTA) was a participating agency concerning the development of the Environmental Assessment (EA) but does not have any role in approving or disapproving New York's proposal. The Metropolitan Transportation Authority (MTA) Reform and Traffic Mobility Act (the Traffic Mobility Act) was passed by the New York State Legislature in April 2019 with the goal of reducing traffic congestion within the Manhattan Central Business District. In June 2023, FHWA approved a Finding of No Significant Impact (FONSI) for the Manhattan Central Business District Tolling Program. The FONSI was issued following an EA prepared by the MTA's Triborough Bridge and Tunnel Authority along with New York State Department of Transportation and New York City Department of Transportation in consultation with FHWA. FTA is aware that the MTA has been planning to fund its 2020–2024 Capital Program, as well as any successor programs, in part through the Traffic Mobility Act's dedicated revenue stream, once implemented. On June 5, 2024, New York Governor Hochul announced a pause of the Manhattan Central Business District Tolling Program.

**QUESTIONS TO HON. ROBIN HUTCHESON, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION,<sup>1</sup> FROM HON. ERIC A. "RICK" CRAWFORD**

*Question 1.* We need more school bus drivers to take children safely to and from school. Thank you for recognizing the need to attract more school bus drivers into the field when, last year, you used existing authorities approving an application to grant a two-year exemption for the "under-the-hood" Commercial Driver's License testing requirements for school bus drivers. When granting this application, it was determined that granting the exemption "is likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption."<sup>2</sup> However, it appears as if only 12 states have taken advantage of this increased flexibility, and not all of them are reporting numbers back to the Federal Motor Carriers Safety Administration (FMCSA) in a timely manner.<sup>3</sup>

*Question 1.a.* In your opinion, why are more states not taking advantage of this waiver?

*ANSWER.* FMCSA communicates frequently with the State Driver Licensing Agencies (SDLA) and associations that focus on pupil transportation issues, such as the National School Transportation Association (NSTA), the National Association of State Directors of Pupil Transportation Services (NASDPTS), and the National Association for Pupil Transportation (NAPT). Based on the public comments submitted to the Agency in processing the exemption application, there does not appear to be a consensus that the exemption provides the intended benefits of addressing the school bus driver shortage. Although FMCSA is not aware of the specific reasons a state may decline to use the exemption, as noted in the docket comments submitted by NASDPTS and NAPT, some stakeholders in the pupil transportation sector do not support the exemption.

*Question 1.b.* What are you doing to encourage states to adopt this exemption to expand the school bus driver pool?

*ANSWER.* FMCSA has engaged in multiple efforts to highlight the availability of the exemption for school bus drivers. Additionally, the Agency approved the American Association of Motor Vehicle Administrators (AAMVA) modernized commercial driver's license (CDL) skills test procedures. The Agency believes that changes to the skills test, including updates to the pre-trip inspection (which covers the under-the-hood topics) would provide a long-term solution to the concerns about the under-the-hood inspection and potentially expand the school bus driver pool. State Driver Licensing Agencies (SDLAs) across the country are working to implement the modernized skills test.

<sup>1</sup> Please note that Administrator Hutcheson resigned her position effective January 26, 2024. These responses are provided on behalf of FMCSA.

<sup>2</sup> *Commercial Driver's License: Application for Exemption; National School Transportation Association*, 87 Fed. Reg. 65114, (Oct. 27, 2022), available at <https://www.federalregister.gov/documents/2022/10/27/2022-23346/commercial-drivers-license-application-for-exemption-national-school-transportation-association>.

<sup>3</sup> See Fact Sheet, NSTA, *States Using the FMCSA "Under the Hood" Exemption as of 10/02/2023* (on file with Comm.).

*Question 1.c.* What steps are you taking to encourage more reporting so that we have the necessary safety data to inform future policy decisions?

*ANSWER.* FMCSA regularly communicates with the State Driver Licensing Agencies (SDLAs) to obtain necessary safety data to inform FMCSA of its actions. For example, each year, FMCSA gathers reports and other safety data from SDLAs to inform policy decisions during Annual Program Reviews (APRs). During the 2024 APRs lifecycle, FMCSA will gather the number of CDLs from each State that were issued because of the school bus exemption.

*Question 2.* In October 2023, FMCSA published a final rule that shortens the duration of automatic regulatory relief from Federal regulations to 14 days, down from the current limit of 30 days. What is perplexing about this rulemaking is it seems to be a solution in search of a problem. Your agency admitted in its final rule it had “no specific quantitative evidence that the current emergency exemption rules have led to a degradation of safety.”<sup>4</sup> Shortening the automatic emergency window from 30 days to 14 days seems to unnecessarily limit the ability of truckers to respond to emergencies, and this is especially true when responding to disasters that require long-term recovery, such as hurricanes and flooding. But an even bigger concern is that your agency seems to have acted in the absence of any data. This is especially frustrating when FMCSA, along with other agencies, constantly cites the need for data to make any regulatory changes. For example, I have heard from truckers that when they ask for regulatory flexibility to help them do their job more safely, FMCSA often says its hands are tied because there is no data that would allow it to act.

*Question 2.a.* How does FMCSA justify these changes to emergency declaration rules when the Administration admits it does not have any data to support it?

*ANSWER.* Under the final rule, “Clarification to the Applicability of Emergency Exemptions,” 88 Fed. Reg. 70897 (Oct. 13, 2023), Presidential declarations of an emergency continue to trigger a 30-day exemption from all FMCSA regulations in 49 CFR parts 390 through 399. However, the rule generally limits the duration and scope of automatic regulatory relief after a regional declaration of emergency by a Governor, a Governor’s authorized representative, or FMCSA. Automatic regulatory relief applies for 14 days, as opposed to 30 days, and exempts CMV drivers only from the hours-of-service regulations in §§ 395.3 and 395.5, as opposed to all regulations in parts 390 through 399. The 14-day period will allow sufficient time for States or other stakeholders to request that FMCSA extend the initial relief period through issuance or extension of the Agency’s own regional emergency exemption. The Agency has an excellent track record of issuing emergency exemptions very quickly in response to hurricanes, floods, wildfires, and other emergencies, often within hours in the case of approaching or sudden storms, and generally at most in a day or two. For local emergencies, automatic regulatory relief is limited by this rule to the hours-of-service regulations in §§ 395.3 and 395.5. The length of automatic regulatory relief was already set at 5 days for local emergencies, and the final rule made no changes to this length. In addition, the final rule revised existing regulations to allow FMCSA to extend and modify the automatic regulatory relief outlined above either on FMCSA’s own initiative or upon request.

The Agency presumes that its safety regulation should remain in effect absent a specific showing that the exemption is necessary. As stated in the rulemaking, FMCSA had no information suggesting that exemptions from all safety regulations in parts 390–399 in the event of an emergency are necessary to enable the provision of emergency relief. The final rule limiting exemptions from existing safety regulations was adopted through notice and comment rulemaking. It was based on FMCSA’s experience providing relief during emergencies and information received from stakeholders during the notice and comment process.

*Question 2.b.* Please describe how this regulation differs from previous instances where FMCSA denied requests for flexibility, for example on Hours-of-Service rules, because the Administration said it lacked data?

*ANSWER.* Safety regulations should remain in effect absent a specific showing that an exemption is necessary. FMCSA adopts new or modifies existing safety regulations through notice and comment rulemaking.

*Question 3.* FMCSA is five years into a rulemaking process on integrating autonomous driving system-equipped commercial motor vehicles and issued a rare Supple-

<sup>4</sup>Clarification to the Applicability of Emergency Exemptions, 88 Fed. Reg. 70897 (Oct. 13, 2023), available at <https://www.federalregister.gov/documents/2023/10/13/2023-22538/clarification-to-the-applicability-of-emergency-exemptions>.



mental Advanced Notice of Proposed Rulemaking on February 1, 2023.<sup>5</sup> Regulatory uncertainty has been a significant issue for autonomous trucking developers, and while FMCSA drags its feet, states like California are starting to cave to special interests and further attack this critical emerging technology and industry.

I would note this draft rule was sent to the Office of Management and Budget (OMB) the day after our hearing. Please provide an update to the Committee on plans to complete this rulemaking.

*ANSWER.* FMCSA is committed to providing safety guardrails for Automated Driving System (ADS)-equipped CMVs. On December 14, 2023, FMCSA submitted a Notice of Proposed Rulemaking (NPRM) for the operation of ADS-equipped CMVs in interstate commerce to OMB's Office of Information and Regulatory Affairs (OIRA) for regulatory review under Executive Order 12866. That review is ongoing. Additional information about OIRA's review of FMCSA's NPRM is available at <https://www.reginfo.gov/public/do/eoDetails?rrid=353262>.

*Question 4.* Administrator Hutcheson, one of the key questions facing autonomous vehicle deployment is how they will interact with law enforcement. In your Supplemental Advanced Notice of Proposed Rulemaking on the Safe Integration of Automated Driving System (ADS)-Equipped Commercial Motor Vehicles, FMCSA addresses this question, with particular focus on commercial vehicle inspections programs.<sup>6</sup> The Commercial Vehicle Safety Alliance (CVSA) offers the Enhanced Commercial Motor Vehicle (CMV) Inspection Program as a solution to how ADS-equipped trucks fit into existing CMV inspection processes, ensuring safety and compliance with critical vehicle maintenance standards while acknowledging the unique nature of ADS-equipped CMVs.<sup>7</sup>

Can you detail how FMCSA is working with CVSA and other industry stakeholders to consider deployment of this program and enable the safe deployment of autonomous trucks?

*ANSWER.* FMCSA engages frequently with the CVSA and other stakeholders on matters concerning the safe operation of ADS-equipped CMVs. Many of these efforts were described in the Agency's May 2019 Advance Notice of Proposed Rulemaking for ADS-equipped CMVs. The February 2023 Supplemental Advance Notice of Proposed Rulemaking [<https://www.govinfo.gov/content/pkg/FR-2023-02-01/pdf/2023-02073.pdf>] describes the Agency's continuing efforts to engage stakeholders. These efforts have included holding public meetings, participating in industry conferences, and making site visits to ADS developers' facilities to learn more about the specific technologies they would use to achieve autonomous operations. The Agency's Notice of Proposed Rulemaking will also provide an opportunity for all interested parties to continue engaging with the Agency in the establishment of uniform, National standards for motor carriers that are considering the deployment of ADS-equipped CMVs.

*Question 5.* Administrator Hutcheson, this Subcommittee held a hearing in September to learn more about the autonomous vehicle (AV) trucking industry in the United States.<sup>8</sup> Witnesses discussed the need for regulatory certainty for safe deployment and they highlighted an unresolved issue under FMCSA's purview.<sup>9</sup> A pending application would allow autonomous trucks to use flashing warning beacons when the truck is pulled over to the side of the road, instead of the traditional warning triangles used by trucks today.<sup>10</sup> Studies conducted showed that the flashing light-based system was effective in alerting road drivers that the truck is pulled over.<sup>11</sup>

<sup>5</sup> Safe Integration of Automated Driving Systems (ADS)-Equipped Commercial Motor Vehicles (CMVs), 88 Fed. Reg. 6691 (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02073/safe-integration-of-automated-driving-systems-ads-equipped-commercial-motor-vehicles-cmv>.

<sup>6</sup> *Id.*

<sup>7</sup> CVSA, *CVSA Announces New Enhanced CMV Inspection Program for Autonomous Truck Motor Carriers*, (Oct. 4, 2022), available at <https://www.cvsa.org/news/new-enhanced-cmv-inspection-program/>

<sup>8</sup> *The Future of Automated Commercial Motor Vehicles: Impacts on Society, the Supply Chain, and U.S. Economic Leadership: Hearing before the Subcomm. on Highways and Transit of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (2023).

<sup>9</sup> *Id.*

<sup>10</sup> *Parts and Accessories Necessary for Safe Operation; Exemption Application From Waymo LLC, and Aurora Operations, Inc.*, 88 Fed. Reg. 13489 (Mar. 3, 2023), available at <https://www.federalregister.gov/documents/2023/03/03/2023-04385/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-waymo-llc-and-aurora>.

<sup>11</sup> See e.g. Letter from Aurora Operations Inc. & Waymo, LLC to the Hon. Robin Hutcheson, Administrator, FMCSA, DOT (Apr. 19, 2023) (on file with Comm.).

This application has been pending for close to a year at FMCSA, can you provide an update on its status?

*ANSWER.* On March 3, 2023, FMCSA published a Federal Register notice, 88 FR 13489 (clarified, and comment period extended, Mar. 9, 2023, 88 FR 14665) announcing that it received an application from Waymo LLC, and Aurora Operations, Inc. (Waymo/Aurora) for a 5-year exemption from the warning device placement requirements of 49 CFR § 392.22(b), the utilization of a warning device that does not meet the steady-burning lamp requirement of 49 CFR § 393.25(e), and the utilization of a warning device for stopped vehicles that is not currently identified in 49 CFR § 393.95(f). The application requests that the exemption apply to motor carriers operating commercial motor vehicles (CMVs) that are being operated by a Level 4 automated driving system (ADS). Instead of the traditional warning devices placed around a stopped autonomous CMV, as required by current regulations, these motor carriers would be allowed to operate Level 4 CMVs with warning beacons mounted on the truck cab. FMCSA is currently reviewing and considering numerous public comments received in response to the Federal Register notice.

*Question 6.* Administrator Hutcheson, FMCSA has previously found that, with respect to pulsating break lights, “The available data indicate that the product will not result in an adverse impact on safety, but rather will help reduce rear-end crashes.”<sup>12</sup> There are currently seven pending applications before your Administration requesting an exemption from the requirement that lighting devices be steady-burning.<sup>13</sup> These petitions have been pending for over nine months. When can these applicants expect to receive a response?

*ANSWER.* FMCSA granted a five-year exemption for several carriers to use a module that pulsates the required brake and clearance lamps for up to four times in the first two seconds of a brake application on their CMVs. The exemptions limit installation of the devices to these carriers and only on vehicles that these carriers own. Any vehicle modified with the module must be remedied before the carrier transfers ownership of the vehicle. The exemptions include reporting requirements for the grantees so that FMCSA may develop a better understanding of the efficacy of the devices. The Agency determined that granting these exemptions to a few easily identifiable motor carriers operating a finite number of CMVs, would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

<sup>12</sup>Memorandum from Earl Adams, Jr., Chief Counsel, FMCSA Office of Chief Counsel to John Putnam, Acting General Counsel, re: Intellistop Pulsating Brake Lamps Exemption, (on file with Comm.).

<sup>13</sup>See e.g. *Parts and Accessories Necessary for Safe Operation; Exemption Application From Melborg Brothers, Inc.*, 88 Fed. Reg. 6804, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02048/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-melborg-brothers-inc>; *Parts and Accessories Necessary for Safe Operation; Exemption Application JM Bozeman Enterprises, Inc.*, 88 Fed. Reg. 6808, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02054/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-jm-bozeman-enterprises>; *Parts and Accessories Necessary for Safe Operation; Exemption Application From Polytech Plastic Molding, Inc.*, 88 Fed. Reg. 6809, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02050/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-polytech-plastic>; *Parts and Accessories Necessary for Safe Operation; Exemption Application From Gemini Motor Transport*, 88 Fed. Reg. 6805, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02053/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-gemini-motor-transport>; *Parts and Accessories Necessary for Safe Operation; Exemption Application From Encore Building Products*, 88 Fed. Reg. 5399, (Jan. 27, 2023), available at <https://www.federalregister.gov/documents/2023/01/27/2023-01602/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-encore-building>; *Parts and Accessories Necessary for Safe Operation; Exemption Application From DJS Fundraising Inc.*, 88 Fed. Reg. 6807, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02049/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-djs-fundraising-inc>; *Parts and Accessories Necessary for Safe Operation; Exemption Application From Brent Higgins Trucking, Inc.*, 88 Fed. Reg. 6811, (Feb. 1, 2023), available at <https://www.federalregister.gov/documents/2023/02/01/2023-02052/parts-and-accessories-necessary-for-safe-operation-exemption-application-from-brent-higgins-trucking>.

QUESTION TO HON. ROBIN HUTCHESON, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. COLIN Z. ALLRED

*Question 1.* This Subcommittee held a hearing in September to learn more about the AV trucking industry in the U.S. The Dallas-Fort Worth Metroplex has become the epicenter of autonomous truck testing in the US, with at least half a dozen different companies safely testing autonomous trucking technology. Witnesses discussed the need for regulatory certainty for safe deployment and they highlighted an unresolved issue under FMCSA's purview. A pending application would allow autonomous trucks to use flashing warning beacons when the truck is pulled over to the side of the road, instead of the traditional warning triangles used by trucks today. Studies conducted showed that the flashing light-based system was effective in alerting road drivers the truck is pulled over.

This application has been pending for close to a year at FMCSA, can you provide its status?

*ANSWER.* On March 3, 2023, FMCSA published a Federal Register notice, 88 FR 13489 (clarified, and comment period extended, Mar. 9, 2023, 88 FR 14665) announcing that it received an application from Waymo LLC, and Aurora Operations, Inc. (Waymo/Aurora) for a 5-year exemption from the warning device placement requirements of 49 CFR § 392.22(b), the utilization of a warning device that does not meet the steady-burning lamp requirement of 49 CFR § 393.25(e), and the utilization of a warning device for stopped vehicles that is not currently identified in 49 CFR § 393.95(f). The application requests that the exemption apply to motor carriers operating commercial motor vehicles (CMVs) that are being operated by a Level 4 automated driving system (ADS). Instead of the traditional warning devices placed around a stopped autonomous CMV, as required by current regulations, these motor carriers would be allowed to operate Level 4 CMVs with warning beacons mounted on the truck cab. FMCSA is currently reviewing and considering numerous public comments received in response to the Federal Register notice.

QUESTION TO ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION,<sup>1</sup> FROM HON. ROBERT MENENDEZ

*Question 1.* The National Renewable Energy Laboratory predicts that the U.S. is going to require nearly 1.1 million additional public EV charging stations to support 50 percent of EV sales by 2030. Presently, the U.S. has just over 150,000 publicly available chargers. This would require over 400 public chargers to be installed every day to meet future need.

The Bipartisan Infrastructure Law signed into law in 2021 provided up to \$7.5 billion in funding for EV charging stations to support increased fleet electrification. However, installation of public chargers has been slower than expected with only two sites opened in Ohio and New York.

Acting NHTSA Administrator Carlson and Under Secretary Monje, what are DOT and other federal agencies doing to facilitate the necessary increase in charging infrastructure?

*ANSWER.* Since the President took office, the number of publicly available charging ports has grown by over 90 percent, with over 186,000 publicly available EV charging ports across the country as of June 25. Our programs are accelerating private sector investment that puts us on track to deploy 500,000 charging ports ahead of schedule and continue to expand a convenient and reliable charging network. Under President Biden's leadership, electric vehicle (EV) sales have more than quadrupled, and more than 4 million EVs are now on the road. Spurred by the President's historic investments, private companies have announced \$177 billion in commitments to invest in the EV and battery manufacturing industry. EVs are critical to our rapid and equitable transition to clean transportation systems, producing zero tailpipe emissions, reducing air pollution and greenhouse gas emissions—major contributors to climate change and key contributors to respiratory ailments.

The BIL provides FHWA with \$7.5 billion in Federal funding for the construction of publicly accessible electric vehicle (EV) chargers and alternative fueling infra-

<sup>1</sup>Please note that Ann Carlson ceased serving as Acting Administrator on December 27, 2023. She subsequently resigned from NHTSA effective January 31, 2024. This response is provided on behalf of NHTSA.

structure. These targeted investments complement the tens of billions in Federal and private sector funding that is building out a national EV charging network, and support good paying jobs across the country installing, maintaining, and repairing EV infrastructure. FHWA, in collaboration with the Joint Office of Energy and Transportation (Joint Office), continues to work with States and other recipients as they access the funding from the National Electric Vehicle Infrastructure (NEVI) Formula Program and the Charging and Fueling Infrastructure (CFI) Discretionary Grant Program. Each State was required to submit an update to their EV Infrastructure Deployment Plan by August 1, 2023. FHWA approved all EV charging plans from States, Puerto Rico, and the District of Columbia, unlocking approximately \$885 million in FY 2024 NEVI formula funding to implement those plans.

The BIL established the first-ever formula program for EV charging infrastructure through the NEVI Formula Program. The NEVI Formula Program will help States create a network of EV charging stations along designated Alternative Fuel Corridors, particularly along the Interstate Highway System. EV charging stations funded by the Bipartisan Infrastructure Law have been opened in six States: Hawaii, Ohio, New York, Pennsylvania, Maine, and Vermont, with EV chargers in more States expected to come online soon.

On January 11, 2024, the Biden-Harris Administration announced \$623 million in grants to help build out an EV charging network across the U.S., which will create American jobs and ensure more drivers can charge their electric vehicles where they live, work, and shop. The grants being announced are made possible by the BIL's \$2.5 billion CFI Discretionary Grant Program, a competitive funding program, and will fund 47 EV charging and alternative-fueling infrastructure projects in 22 states and Puerto Rico, including construction of approximately 7,500 EV charging ports.

On January 18, 2024, the Biden-Harris Administration announced it is awarding nearly \$150 million to 24 grant recipients in 20 states to repair or replace nearly 4,500 existing EV charging ports. Under the NEVI Formula Program, 10% of the funding is set-aside for grants to States or localities that require additional assistance to strategically deploy EV charging infrastructure. This first round of funding focuses on improving the reliability and accessibility of the current network by repairing or replacing existing EV charging infrastructure.

FHWA is working with recipients to execute grant agreements as expeditiously as possible, which will translate into more ports available to drivers of EVs. We issued the NOFO for the second round of funding for these two programs on May 30, 2024.

BIL also established the Joint Office, which is charged with studying, planning, coordinating, and implementing issues of joint concern between the Departments of Energy and Transportation. The Joint Office provides technical assistance related to the deployment, operation, and maintenance of zero emission vehicle charging and refueling infrastructure, renewable energy generation, vehicle to grid integration, including microgrids, and related programs and policies.

When you combine public and private investment, more than \$25 billion of investment in U.S. EV charging has been announced to date. According to a recent analysis from the Department of Energy, that puts us on a path to deliver nearly 1.2 million public chargers by 2030—keeping pace with ever-growing EV adoption. That includes charging infrastructure that's made in America—companies have announced more than 1 million chargers per year of manufacturing capacity since President Biden took office.

**QUESTION TO ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. COLIN Z. ALLRED**

*Question 1.* Autonomous vehicles are a true dual-use technology, with similar technologies undergirding civilian autonomous vehicles like cars and trucks, as well as futuristic, next-generation military platforms like the Robotic Combat Vehicle. This makes ensuring American leadership on autonomous technology not only an economic issue, but a matter of national security.

How is NHTSA working to ensure that regulations contribute to ensuring the United States remains the world leader on autonomous technology development?

*ANSWER.* NHTSA believes regulations for advanced safety technologies, such as automated driving systems (ADS), must optimize safety while leaving room for innovation. However, the net impacts of ADS technologies—on safety, mobility, emissions, workforce and otherwise—will be the result of engineering, deployment, and policy choices.

NHTSA has taken actions that both facilitate the introduction of new technologies (e.g., issuing the ADS Occupant Protection Final Rule, establishing a specialized exemption program, developing the ADS-Equipped Vehicle Safety, Transparency and Evaluation Program (AV-STEP)), and improve safety (e.g., Standing General Order, investigations, recalls) across the full spectrum of advanced technologies.

Leveraging existing resources and authorities, NHTSA established an Office of Automation Safety within NHTSA's rulemaking program to support the agency's work to improve safety and accountability, while encouraging innovation. This office helps consolidate and focus NHTSA's expertise and resources to enhance the collaboration, effectiveness, and efficiency of the agency's regulatory work related to automated technologies and vehicles.

**QUESTION TO ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. EMILIA STRONG SYKES**

*Question 1.* In 2007, 16 years ago, Congress directed that a national tire fuel efficiency consumer information program be established to educate consumers about the safety, durability and fuel efficiency of replacement tires. In 2015, 8 years ago, in the FAST Act, Congress directed the promulgation of regulations for tire fuel efficiency and minimum performance standards. In 2021, the IIJA required the Department of Transportation report to Congress a response as to why it had not completed these regulations. Ms. Carlson, these regulations are important for energy savings, consumer information and assuring U.S. consumers have access to the latest tire technologies. They also are important to assure an equal playing field for domestic tire producers.

So why is the Department so delayed—and when will NHTSA complete these rulemakings?

*ANSWER.* NHTSA continues to work on updating both its consumer research and the baseline rolling resistance and wet traction performance of the current U.S. tire fleet. The agency needed to first collect and update this foundational baseline research data before establishing the national tire fuel efficiency consumer information program.

The results of this research will enable the agency to develop the rulemaking proposals directed by Congress. NHTSA aims to complete the research and rulemaking proposals in early 2025.

Additionally, NHTSA provides consumer information about tires and fuel efficiency via the agency's website available at <https://www.nhtsa.gov/vehicle-safety/tires>.

**QUESTION TO ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. JAKE AUCHINCLOSS**

*Question 1.* Ms. Carlson, the New York Times recently detailed a dramatic rise in pedestrian deaths in the United States in the last decade, in an article titled “Why Are So Many American Pedestrians Dying at Night?” I'd like to enter this article into the record.<sup>†</sup>

The article notes that new vehicles are often wider, taller, and heavier, affecting their brake time and their force on impact. In September, I asked Secretary Buttigieg about NHTSA's work to incorporate pedestrian crashworthiness ratings into a vehicle's final safety ratings.

What progress has NHTSA made on this effort and what additional steps can your agency take to increase pedestrian and cyclist safety?

*ANSWER.* NHTSA is focused on addressing fatalities for all road users—including those outside the vehicle. On March 9, 2022, NHTSA issued a Request for Comment (RFC) [<https://www.federalregister.gov/documents/2022/03/09/2022-04894/new-car-assessment-program>] to update the New Car Assessment Program (NCAP) that, once finalized, will provide information to consumers about additional advanced crash avoidance technologies, including pedestrian automatic emergency braking (PAEB). NHTSA is working to complete the final decision notice in 2024.

On May 26, 2023, NHTSA published an additional RFC [<https://www.federalregister.gov/documents/2023/05/26/2023-11201/new-car-assessment->

<sup>†</sup> Editor's note: See pages 96–100.

program#:--:text=The%20March%202022%20NCAP%20RFC,to%20upgrade%20NCAP%20in%20phases.] that seeks public input on new pedestrian crash-worthiness tests in NCAP to protect pedestrians and other vulnerable road users in the event a crash cannot be avoided. NHTSA plans to publish the final decision notice in 2024.

On May 9, 2024, NHTSA finalized a new Federal Motor Vehicle Safety Standard (FMVSS) that requires automatic emergency braking and pedestrian AEB systems on passenger cars and light trucks. NHTSA projects that this new standard, FMVSS No. 127, will save at least 360 lives a year and prevent at least 24,000 injuries annually.

Additionally, NHTSA is working to publish a NPRM in 2024 proposing a new Federal Motor Vehicle Safety Standard that would ensure light passenger vehicles are designed to mitigate the risk of serious to fatal injury in child and adult pedestrian crashes. The proposed standard would establish test procedures simulating a head-to-hood impact and performance requirements to minimize the risk of head injury. NHTSA initiated this rulemaking following the establishment of a Global Technical Regulation on pedestrian protection by the United Nations Economic Commission for Europe's World Forum for the Harmonization of Vehicle Regulations (WP.29).

The Bipartisan Infrastructure Law provides significant resources to states to address roadway fatalities and injuries, including increased dedicated funding for pedestrian and bicycle safety through the Section 405h Nonmotorized Safety Grants [<https://www.ecfr.gov/current/title-23/chapter-III/part-1300#1300.27>]. NHTSA works closely with states on their Triennial Highway Safety Plans and Annual Grant Applications to ensure that state programs are data driven and focused on the safety of all road users, including pedestrians and cyclists.

**QUESTIONS TO ANN CARLSON, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM HON. MARK DESAULNIER**

*Question 1.* I have spent a long time with my colleague Congressman Steve Cohen trying to protect the public from the horrors of side underride crashes, which as you know can result in gruesome deaths and injuries. We have long wanted NHTSA to prevent these casualties by addressing the inherently dangerous design of America's commercial truck trailers, and Congress stepped in with the passage of the Bipartisan Infrastructure Law to imposed mandatory deadlines on NHTSA, which included completing research on side underride protection.

As you know, the Infrastructure Law required that NHTSA assess costs and benefits of side underride protection, summarize public comments on its assessment of those comments, and, within 90 days, file a report with Congress detailing NHTSA's determination of whether NHTSA will develop performance requirements to protect against side underride-caused death and injury.

While I appreciate the work NHTSA has done to conduct valuable stakeholder engagement, the 90 days have long passed and we have yet to see this report.

Can you share the progress on the report and the expected timeline for release?

*ANSWER.* NHTSA's report to Congress as required by Section 23011(c), "Side Underride Guards," of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act, is under final Departmental review. NHTSA and the Department are working expeditiously to transmit the report to Congress in 2024.

As required by BIL, NHTSA completed research on side underride guards and published an Advance Notice of Proposed Rulemaking (ANPRM) (April 21, 2023, 88 FR 24535) seeking public comment on NHTSA's assessment of the feasibility, benefits, costs of, and impacts of requiring side impact guards. NHTSA received 2,072 comments on the ANPRM.

NHTSA has taken several steps to improve the accuracy of the data collected regarding underride in its crash databases. NHTSA published the 6th edition of the Model Minimum Uniform Crash Criteria (MMUCC) in January 2024, that includes an underride/override element to increase uniformity and accuracy of underride information in NHTSA's crash databases. Additionally, NHTSA has distributed educational materials to State and local police departments on identifying and recording underride crashes and is providing enhanced training to coders/analysts for improved accuracy and quality control of data.

NHTSA is facilitating the Advisory Committee on Underride Protection, which is to provide information, advice, and recommendations to the Secretary of Transportation on safety regulations to reduce underride crashes and fatalities related to underride crashes. Members of the committee include safety advocates, family mem-

bers of crash victims, and members representing trailer manufacturers, truck operators, law enforcement, insurance industry, motor vehicle engineers, motor vehicle crash investigators, emergency medical service providers, and labor organizations.

*Question 2.* In October, the Department of Transportation released a plan to accelerate deployment of vehicle-to-everything (V2X) communications technology, which enables vehicles to communicate with each other, pedestrians, and road infrastructure. It outlines specific deployment targets over the next 10 years for multiple stakeholders, including infrastructure owners and operators, and automobile manufacturers.

Can you talk about the role V2X communications technology will play to support the National Roadway Safety Strategy?

*ANSWER.* The National Roadway Safety Strategy (NRSS) outlines key near-term actions that DOT is undertaking to significantly reduce serious injuries and deaths on our Nation's highways, roads, and streets. One highlighted action on the NRSS Tracking Dashboard<sup>2</sup> is the promotion of technologies to advance roadway safety. This action specifically includes both Intelligent Transportation Systems (ITS) and interoperable vehicle-to-everything (V2X) wireless communications, recognized as additional safety tools. V2X communications serve as a mechanism to deliver timely driver warnings and vulnerable road user alerts by processing data from multiple vehicles, mobile devices, and connected roadway infrastructure. The timely integration of relevant data from these sources through V2X enables multiple safety applications.

V2X applications enable drivers to be warned of hazardous situations before they can see them. For example, the Connected Vehicle Pilot Deployment Program (2015–2022)<sup>3</sup> successfully demonstrated more than 20 V2X-enabled safety applications in diverse locations. This ranged from alerting drivers to the presence of pedestrians in mid-block crossings in downtown Tampa to providing timely road weather/visibility alerts to truck drivers traversing I-80 in Wyoming during blizzards.

Over the past year, DOT has undertaken significant actions to support the ITS community and to promote the deployment of V2X technology. In October 2023, FHWA and the ITS Joint Program Office issued the *Draft National V2X Deployment Plan*. Industry has expressed appreciation for DOT's leadership in issuing the Draft Plan and working with the Federal Communications Commission (FCC) to provide certainty related to spectrum requirements. Also in October 2023, DOT announced the *Saving Lives with Connectivity: Accelerating V2X Deployment* Notice of Funding Opportunity.<sup>4</sup> This groundbreaking \$40 million grant initiative aims to empower entities to deploy, operate, and showcase roadway deployments featuring applications enabled by V2X.

Additionally, DOT has awarded discretionary grants totaling more than \$100 million in the past ten years to state and local transportation organizations to support V2X and connected vehicle deployment through programs such as Connected Vehicle Pilots, Better Utilizing Investments to Leverage Development (BUILD), Advanced Transportation Technologies and Innovative Mobility Development (ATTIMD)/Advanced Transportation Technology and Innovation (ATTAIN), and Strengthening Mobility and Revolutionizing Transportation (SMART).

Departmental support also includes addressing critical technical issues and building a cohesive structure for interoperable deployments across the Nation. For example, DOT established the Accelerating V2X Cohort, which currently has 31 entities as members and serves as a platform for public agencies engaged in active V2X deployment projects. These agencies exchange insights, and share best practices and lessons learned, contributing to the advancement of interoperable V2X technologies.

*Question 3.* This summer, NHTSA previewed a rulemaking called AV STEP which would streamline and enhance the existing approval process for noncompliant automated vehicles. A clear, timely, modernized regulatory process that acknowledges the unique attributes of these next-generation vehicles will not only help ensure safety, but also attract new manufacturers to the U.S. To my understanding, there are multiple European manufacturers who are interested in onshoring U.S. facilities but without a clear path and timeline to market, they are simply focusing on Europe where the rules are clear. Unfortunately, that means we are missing out on the innovation and jobs associated with the manufacturing of those vehicles. Originally the AV STEP rulemaking was slated to be published in Fall 2023.

<sup>2</sup>NRSS Action Tracking Dashboard

<sup>3</sup><https://www.its.dot.gov/pilots/>

<sup>4</sup><https://highways.dot.gov/newsroom/usdot-opens-40-million-grant-opportunity-connected-vehicle-technologies-will-help-save>

Can you provide an update of when you expect the AV STEP rulemaking to be published, any detail on what we can expect it to look like and how it will prioritize safety of AVs, and an expected timeline for the proposed rulemaking to become final and effective?

*ANSWER.* The ADS-equipped Vehicle Safety, Transparency, and Evaluation Program (AV STEP) is a rulemaking under development that is intended to enhance the agency's review, monitoring, and reporting of ADS operations. AV STEP will provide a streamlined approach for review and oversight of participating ADS-equipped vehicles, such as requiring a baseline set of information about requested ADS operations, ensuring conformance with relevant industry standards and best practices, and setting terms and conditions designed to enhance public safety and transparency. NHTSA is actively developing the proposal for publication in 2024. NHTSA will develop a timeline for next steps, including a final rule and effective date, after receiving and considering public comments to an NPRM.

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