THE STATE OF TRANSPORTATION

(118–42)

HEARING

BEFORE THE

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HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

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JANUARY 17, 2024

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JANUARY 12, 2024

SUMMARY OF SUBJECT MATTER

TO: Members, Committee on Transportation and Infrastructure
FROM: Staff, Committee on Transportation and Infrastructure
RE: Full Committee Hearing on "*The State of Transportation*"

I. PURPOSE

The Committee on Transportation and Infrastructure will meet on Wednesday, January 17, 2024, at 10:00 a.m. ET in 2167 of the Rayburn House Office Building to receive testimony at a hearing entitled, "*The State of Transportation*." The hearing will discuss the current state of our Nation's transportation infrastructure and supply chain challenges. At the hearing Members will receive testimony from the Virginia Port Authority, the Washington State Department of Transportation, the Transportation Intermediaries Association (TIA), and the Associated General Contractors of America (AGC).

II. BACKGROUND

Infrastructure is generally acknowledged as the physical facilities that support the transportation, energy, and communications sector.[1] Transportation infrastructure is the underlying system of public works designed to facilitate movement.[2] Based on current mobility patterns and transportation modes in the United States, this infrastructure includes roads, railways, airways, transit systems, waterways, and pipelines, as well as facilities such as airports, ports, railway stations, bus stations, warehouses, and trucking terminals.[3] These systems are essential to the movement of people and goods Nationwide and globally, and play an integral role in the United States' economic competitiveness and Americans' quality of life.[4]

The United States' transportation system, overseen by the United States Department of Transportation (DOT or Department), includes 4.2 million miles of public roads, nearly 620,000 bridges, 3.4 million miles of hazardous liquid and natural gas pipelines, 25,000 miles of commercially navigable waterways, approximately 137,000

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[1] UNITED STATES DEP'T. OF HOMELAND SEC., FEDERAL EMERGENCY MANAGEMENT AGENCY, INFRASTRUCTURE, *available at* https://www.fema.gov/glossary/infrastructure.

[2] Nat'l Geographic Resource Library, *Transportation Infrastructure*, (last accessed Jan. 11, 2024), *available at* https://education.nationalgeographic.org/resource/transportation-infrastructure/.

[3] *See e.g.* DOT, BUREAU OF TRANSP. STATISTICS, TRANSP. STATISTICS ANNUAL REP. 2023 (2023), *available at* https://www.bts.gov/sites/bts.dot.gov/files/2023-12/TSAR-2023__123023.pdf [hereinafter Transp. Statistics Annual Rep. 2023].

[4] *Id.*

railroad route-miles, and more than 5,200 public-use airports.[5] The transportation system also includes 970 urban and 1,270 rural and Tribal public transit operators, and more than 300 ports on the coasts, Great Lakes, and inland waterways.[6] In 2022, the Nation's transportation system served 333 million residents, and connected 8.1 million businesses with customers, suppliers, and workers.[7]

Although the state of infrastructure in the United States was once unparalleled, more recent reports indicate that America no longer ranked with the best infrastructure in the world.[8] For example, in 2019, the World Economic Forum (WEF) ranked the United States' physical infrastructure as 13th in the world.[9] Additionally, a Council of Foreign Relations' report states that the United States' infrastructure is overstretched and lagging behind economic competitors, particularly China.[10] Further, the latest American Society of Civil Engineers' (ASCE) report card for American infrastructure, issued in 2021, rated the Nation's overall infrastructure as a C minus.[11]

Ensuring the United States' transportation systems are equipped to handle future demand from freight is a challenge that must be addressed. In 2021, DOT projected freight activity would increase by 50 percent in tonnage and double in value from 2020 to 2050.[12] In 2022, the Nation's freight transportation system moved nearly 20 billion tons of goods, representing a value of approximately $19 trillion.[13] Therefore, the significance of freight activity has far reaching ramifications for the broader $25 trillion United States economy, as it relies on the vast network of infrastructure.[14]

III. SUPPLY CHAIN AND RECENT CHALLENGES

The supply chain is a network comprised of the entire process of making and selling commercial goods, from the supply of materials, manufacture of goods, through their transportation, distribution, and sale.[15] Moving goods is critical to the success of this system.[16] A well-managed supply chain results in the efficient use of resources, reduced costs, a faster production cycle, and satisfied consumers.[17]

In 2022, the total value of United States' foreign trade was about $5.31 trillion.[18] Los Angeles, California is the Nation's leading gateway, with the Port of Los Angeles handling $310.7 billion in trade flows, including $282.2 billion in imports and $28.5 billion in exports, in 2022.[19] Indicative of the high trade volumes between the

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[5] *See id., see also Pipeline Safety: Reviewing Implementation of the PIPES Act of 2020 and Examining Future Safety Needs: Hearing Before the Subcomm. on Railroads, Pipelines, and Hazardous Materials of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (2023) (statement of Tristan Brown, Deputy Administrator, Pipeline and Hazardous Materials Safety Administration) *available at* https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2023-03/Written%20Testimony%20-%20Tristan%20Brown%20-%20House%20T%26I%20Hearing%20on%20Pipeline%20Safety%20-%20March%208%202023.pdf.

[6] *Id.*

[7] Transp. Statistics Annual Rep. 2023, *supra* note 3.

[8] James McBride, et. al., *The State of U.S. Infrastructure*, COUNCIL OF FOREIGN RELATIONS, (last updated Sept. 20, 2023) *available at* https://www.cfr.org/backgrounder/state-us-infrastructure [hereinafter The State of U.S. Infrastructure].

[9] KLAUS SCHWAB, THE WORLD ECONOMIC FORUM, THE GLOBAL COMPETITIVENESS REP. (2019), *available at* https://www3.weforum.org/docs/WEF__TheGlobalCompetitivenessReport2019.pdf.

[10] The State of U.S. Infrastructure, *supra* note 8.

[11] AM. SOC. OF CIVIL ENGINEERS, A COMPREHENSIVE ASSESSMENT OF AMERICA'S INFRASTRUCTURE: 2021 REP. CARD FOR AMERICA'S INFRASTRUCTURE *available at* https://infrastructurereportcard.org/wp-content/uploads/2020/12/National__IRC__2021-report.pdf. (Please note this report is only issued every four years).

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

[13] Transp. Statistics Annual Rep. 2023, *supra* note 3.

[14] The State of U.S. Infrastructure, *supra* note 8.

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

[16] *The Transportation Supply Chain*, SUPPLY CHAIN DRIVE, (Jan. 17, 2021), *available at* https://www.supplychaindive.com/spons/the-transportation-supply-chain/433934/.

[17] *See* Sean Harapko, *How COVID–19 Impacted Supply Chains and What Comes Next*, EY, (Jan. 6, 2023), *available at* https://www.ey.com/en__us/supply-chain/how-covid-19-impacted-supply-chains-and-what-comes-next#:~:text=The%20pandemic%20continues%20to,new%20challenges%20for%20supply%20chains [hereinafter How COVID–19 Impacted Supply Chains]; Jack Grimshaw, *What is Supply Chain? A Definitive Guide*, SUPPLY CHAIN DIGITAL, (May 17, 2020), *available at* https://supplychaindigital.com/supply-chain-2/what-supply-chain-definitive-guide.

[18] Transp. Statistics Annual Rep. 2023, *supra* note 3 at 3–1.

[19] *Id.*

United States and Mexico, on the United States side of the border, Laredo, Texas, was the number one land gateway, handling $287.3 billion in international freight, in 2022.[20] Houston, Texas, ranked as the Nation's top export gateway, with an export freight value of $133 billion.[21] Recent supply chain shifts have occurred and more United States' imports and exports from Middle Eastern and Asian countries entered the Nation through east coast ports, as a whole, rather than west coast ports in 2022.[22]

In 2020, COVID–19 exposed vulnerabilities in transportation networks, with a disruption in one part of the supply chain having a ripple effect across all parts of the supply chain, from manufacturers to suppliers and distributors.[23] Weaknesses in the global supply chain were exacerbated by supply and demand imbalances, restrictions and regulations, and workforce and infrastructure challenges.[24] New international issues are impacting the effectiveness and operation of the global supply chain and have accelerated changes in domestic and international commerce and passenger flows.[25]

For example, the Bureau of Transportation Statistics Annual Report for 2023 noted that "world oil markets were disrupted by Russia's invasion of Ukraine,"[26] which posed a challenge to the global supply chain as "transportation's petroleum dependence remained below 90 percent . . . at 89.4 percent in 2022."[27] In addition, tensions in the Middle East are impacting the global supply chain.[28] Since the beginning of the war in Israel, the Houthis, an Iranian backed group in Yemen, have attacked naval and commercial shipping targets transiting through the Red Sea and the Gulf of Aden.[29] The area is a critical global shipping route connecting Europe and Asia through the Suez Canal, and the impairment of shipping operations through the region impacts the global supply chain. The United States Navy is leading an international coalition to repel Houthi militant attacks through Operation Prosperity Guardian.[30] As threats continue against ships operating in the region, major carriers have paused operations through the Red Sea and the Gulf of Aden, necessitating much longer shipping routes and increased container rates.[31]

Supply chain issues are also affected by increased migrant traffic at the Southern border.[32] In December 2023, United States Customs and Border Protection (CBP) suspended rail operations for five days in Eagle Pass and El Paso, Texas, two of the seven freight rail ports of entry, to redirect personnel to respond to increased levels of migrants encounters on the Southwest border.[33] Several organizations

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[20] *Id.* at 3–12.

[21] *Id.*

[22] *Id.* at 3–14.

[23] *See* How COVID–19 Impacted Supply Chains, *supra* note 27; Peter S. Goodman, *How the Supply Chain Broke, and Why it Won't Be Fixed Anytime Soon*, N.Y. TIMES, (Oct. 21, 2021), *available at* https://www.nytimes.com/2021/10/22/business/shortages-supply-chain.html [hereinafter *How the Supply Chain Broke*].

[24] *See* How COVID–19 Impacted Supply Chains, *supra* note 27; Chuin-Wei Yap, William Boston, & Alistair MacDonald, *Global Supply-Chain Problems Escalate, Threatening Economic Recovery*, WALL ST. J., (Oct. 8, 2021), *available at* https://www.wsj.com/articles/supply-chain-issues-car-chip-shortage-covid-manufacturing-global-economy-11633713877.

[25] Transp. Statistics Annual Rep. 2023, *supra* note 3 at v.

[26] *Id.* at 6–4.

[27] *Id.*

[28] *Advisory: Red Sea Disruptions Continue to Impact Global Supply Chains*, WEFREIGHT, (Jan. 4, 2024), *available at* https://wefreight.com/advisory-red-sea-disruptions-continue-to-impact-global-supply-chains/#:~:text=The%20Red%20Sea%20disruptions%20are,their%20vessels%20in%20this%20area.

[29] Britney Nguyen, *Maersk Extends Red Sea Shipping Pause Indefinitely Amid Houthi Attacks*, FORBES, (Jan. 2, 2024), *available at* https://www.forbes.com/sites/britneynguyen/2024/01/02/maersk-extends-red-sea-shipping-pause-indefinitely-amid-houthi-attacks/?sh=5462f0736c66.

[30] Release, UNITED STATES DEP'T OF DEFENSE, *Statement of Secretary of Defense Lloyd J. Austin III on Ensuring Freedom of Navigation in the Red Sea*, (Dec. 18, 2023), *available at* https://www.defense.gov/News/Releases/Release/Article/3621110/statement-from-secretary-of-defense-lloyd-j-austin-iii-on-ensuring-freedom-of-n/.

[31] Lori Ann LaRocco, *Maersk's Red Sea shipping pause highlights challenges for U.S.-led efforts to protect trade*, CNBC, (Jan. 2, 2024), *available at* https://www.cnbc.com/2024/01/02/maersk-red-sea-pause-shows-operation-prosperity-guardian-limits.html.

[32] *See e.g.* William C. Vantuono, *Eagle Pass, El Paso Border Crossings Reopened (Updated)*, RAILWAY AGE, (Sept. 26, 2023), *available at* https://www.railwayage.com/freight/class-i/up-eagle-pass-border-crossing-reopening/; Larry Avila, *Rail Border Crossings Reopen at Eagle Pass and El Paso, Texas*, (Updated Dec. 22, 2023), *available at* https://www.supplychaindive.com/news/railroads-urge-customs-to-reopen-eagle-pass-el-paso-texas-railroad-cross-border-bridges/702865/.

[33] Media Release, United States Customs and Border Protection, *Statement from CBP on Suspension of Rail Operations in Eagle Pass and El Paso, Texas*, (Dec. 17, 2023), *available at* https://www.cbp.gov/newsroom/national-media-release/statement-cbp-suspension-rail-operations-

Continued

urged the Administration to reopen the routes.[34] This created concern about its potential impact on both cross-border international trade and American consumers.[35]

IV. ADDRESSING TRANSPORTATION AND SUPPLY CHAIN CHALLENGES

Maintaining an efficient and reliable domestic supply chain is multi-faceted; however, sustaining the Nation's transportation infrastructure is a crucial element. While several factors, including trade agreements, tariffs, international conflicts, and labor fall outside of the Committee's jurisdiction, many challenges fall under this Committee's purview. Therefore, the Committee will assess the implementation of laws, evaluate executive actions, and propose solutions that alleviate challenges facing our Nation's supply chain.

INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA) (P.L. 117–58)

On November 15, 2021, President Biden signed IIJA into law, representing the largest Federal investment in decades in the United States' infrastructure.[36] 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.[37]

Since IIJA's enactment, as of December 17, 2023, DOT has indicated it has announced nearly $261.6 billion in IIJA formula funding and grant awards to states, local governments, transit agencies, airports, ports, and other project sponsors.[38] The Federal Highway Administration (FHWA) has distributed approximately $185.5 billion under the highway program.[39] Analysis of FHWA data by the American Road

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eagle-pass-and-el-paso; FRA, FRA REP. TO HOUSE AND SENATE APPROPRIATIONS COMMITTEES, INTERNATIONAL BORDER PASSENGER AND FREIGHT RAIL STUDY, (June 2017), *available at* https://railroads.dot.gov/sites/fra.dot.gov/files/fra__net/17163/FRA%20-%20International%20Border%20Passenger%20and%20Freight%20Rail%20Study%20-2017.pdf.

[34] *See e.g.* Cheney Orr, Laura Gottesdiener, & Ted Hesson, *Farm, Rail companies Urge Reopening of US-Mexico Crossings Shut Over Migrants*, REUTERS, (Dec. 20, 2023), *available at* https://www.reuters.com/world/migrant-surge-us-mexico-border-slows-trade-washington-seeks-answers-2023-12-20/#:~:text=Railroad%20companies%20and%20business%20groups,redirect%20personnel%22%20to%20process%20migrants.

[35] Valerie Gonzalez, *Two Railroad Crossings are Temporarily Closed in Texas. Will There Be A Significant Impact on Trade?*, AP, (Dec. 21, 2023), *available at* https://apnews.com/article/immigration-rail-crossings-closed-texas-d20973001fa607f228f89059b60159d9.

[36] IIJA, Pub. L. No. 117–58, 135 Stat. 429.

[37] *Id.*

[38] DOT, *Investment in Infrastructure and Jobs Act—Financial Summary as of Dec. 17, 2023*, (last accessed Jan. 8, 2024), *available at* https://www.transportation.gov/sites/dot.gov/files/2024-01/BIL__Status__of__Funds__Report__12-17-23.pdf [hereinafter *IIJA Funding Table*].

[39] *See e.g.* FHWA, *Notice, Apportionment of Fed.-Aid Highway Program (FAHP) Funds for FY 2022*, (Dec. 14, 2021), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510858/; FHWA, *Notice, Apportionment of FAHP Funds for FY 2023*, (Oct. 3, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510870/n4510870__t1.cfm; FHWA, *Notice, Apportionment of FAHP Funds for FY 2024*, (Oct. 2, 2023), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510880.cfm#__ftnref1; FHWA, *Notice, Revised Apportionment of FY 2022 Hwy. Infrastructure Program Funds for the Bridge Formula Program (HIPFBFP) Pursuant to IIJA*, (Apr. 8, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510867.cfm; DOT, FHWA, *Apportionment of FY 2023 HIPFBFP Pursuant to IIJA*, (Oct. 6, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510872.cfm; FHWA, *Notice, Apportionment of FY 2024 HIPFBFP Pursuant to IIJA* (Oct. 2, 2023), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510882.cfm; FHWA, *Notice, Apportionment of FY 2022 Highway Infrastructure Program Funds for the Appalachian Development Highway System (HIPADHS) Pursuant to IIJA*, (Jan 25, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510862.cfm; FHWA, *Notice, Apportionment of FY 2023 HIPADHS Pursuant to IIJA*, (Oct. 6, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510874.cfm; FHWA, *Notice, Apportionment of FY 2024 HIPADHS Pursuant to IIJA*, (Oct. 2, 2023), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510884.cfm; FHWA, *Notice, Apportionment of FY 2022 Hwy. Infrastructure Program Funds for the Nat'l Electric Vehicle Infrastructure Formula Program (HIPFNEVI) Pursuant to IIJA*, (Feb. 10, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510863.cfm; FHWA, *Notice, Apportionment of FY 2023 HIPFNEVI Pursuant to IIJA*, (Oct. 6, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510873.cfm; FHWA, *Notice, Apportionment of FY 2024 HIPFNEVI Pursuant to IIJA*, (Oct. 2, 2023), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510883.cfm; FHWA, *Notice, Apportionment of Hwy. Infrastructure Program Funds Pursuant to the DOT Appropriations Act, 2022*, (May 5, 2022), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510866.cfm; FHWA, *Notice, Apportionment of Hwy. Infrastructure Program Funds Pursuant to the DOT Appropriations Act, 2023*, (Feb. 8 2023), *available at* https://www.fhwa.dot.gov/legsregs/directives/notices/n4510878.cfm; DOT, *2023 SS4A Awards*, (last updated Dec. 18, 2023), *available at* https://www.transportation.gov/grants/ss4a/2023-awards.

& Transportation Builders Association (ARTBA) indicates that states have used these formula dollars to support more than 60,000 projects across the country, through September 30, 2023.[40] Additionally, the Federal Transit Administration (FTA) has distributed approximately $41 billion in transit funding, the Federal Aviation Administration (FAA) has announced nearly $13 billion in airport funding, and the Office of the Secretary (OST) has announced approximately $7.5 billion in grants for various programs.[41]

Despite historic levels of investment some concerns exist related to the impact of IIJA funds. Recent analysis examined IIJA obligations to assess the rate at which the funds are "being put to work." [42] For example, the analysis showed that while IIJA provided a 31.5 percent increase in new contract authority for the mass transit Formula and Bus Grants account, new obligations in 2023 for that account were only six percent higher than 2021.[43] The analysis explains the spend out rate of these funds as transit agencies using supplemental emergency funding provided by Congress, which expire in a shorter timeframe, before obligating their regular formula funds under IIJA.[44] Further, the analysis noted that several other IIJA programs were progressing slowly.[45]

Additionally, while inflation has moderated overall, after spiking in June 2022, inflation within the construction industry remains concerning.[46] Within the construction industry, inflation can result in higher costs of construction materials and other resources necessary for project completion including higher cost of fuel, equipment, technology, labor, and transportation.[47] Notably, highway construction costs had

[40] ARTBA, *Highway Dashboard, Tracking Infrastructure IIJA Highway and Bridge Resources*, (last accessed Jan. 8, 2024), *available at* https://www.artba.org/economics/highway-dashboard-iija/.

[41] *See* DOT, FTA, *Table 1. FY 2023 FTA Appropriations and Apportionments for Grant Programs (Full Year)*, (Last updated Feb. 6, 2023), *available at* https://www.transit.dot.gov/funding/apportionments/table-1-fy-2023-fta-appropriations-and-apportionments-grant-programs-full; DOT, FTA, *Table 1. FY 2022 FTA Appropriations and Apportionments for Grant Programs (Full Year)*, (Last updated May 4, 2022), *available at* https://www.transit.dot.gov/funding/apportionments/table-1-fy-2022-fta-appropriations-and-apportionments-grant-programs-full; DOT, *FY 2022 Mega Grant Awards*, (last updated Jan. 30, 2023), *available at* https://www.transportation.gov/sites/dot.gov/files/2023-01/MEGA%20FY%202023%20Combined%20Fact%20Sheet.pdf; DOT, *RAISE 2022 Award Fact Sheets*, (last updated Sept. 20, 2022), *available at* https://www.transportation.gov/sites/dot.gov/files/2022-09/RAISE%202022%20Award%20Fact%20Sheets_1.pdf; DOT, *RAISE 2023 Award Fact Sheets*, (last updated June 30, 2023), *available at* https://www.transportation.gov/sites/dot.gov/files/2023-06/RAISE%202023%20Fact%20Sheets_2.pdf; Press Release, DOT, *Biden-Harris Administration Funds Innovative Projects to Create Safer, More Equitable, Transportation Systems*, (Mar. 21, 2023), *available at* https://www.transportation.gov/briefing-room/biden-harris-administration-funds-innovative-projects-create-safer-more-equitable; DOT, *SS4A 2022 Awards*, (last updated Apr. 19, 2023), *available at* https://www.transportation.gov/grants/ss4a/2022-awards; DOT, FHWA, *Culvert AOP Program Grant Recipients*, (last updated Aug. 16, 2023), *available at* https://www.fhwa.dot.gov/engineering/hydraulics/culverthyd/aquatic/2022recipients.cfm; FAA, *Bipartisan Infrastructure Law—FY 24 Airport Infrastructure Grant (AIG) Program Formulation Allocations*, (last accessed Jan. 8, 2024), *available at* https://www.faa.gov/sites/faa.gov/files/FY24_AIG_Allocations.pdf; DOT, *2023 SS4A Awards*, (last updated Dec. 18, 2023), *available at* https://www.transportation.gov/grants/ss4a/2023-awards.

[42] Jeff Davis, *Two Years In, How Quickly is IIJA Funding Being Put To Work?*, ENO CTR. FOR TRANSP., (Dec. 1, 2023), *available at* https://enotrans.org/article/two-years-in-how-quickly-is-iija-funding-being-put-to-work/.

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *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-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; Jeff Davis, *Highway Construction Cost Inflation Did Not Slow in 2Q 2023—15.3% Annual Rate*, ENO CTR. FOR TRANSP., (Dec. 21, 2023), *available at* https://enotrans.org/article/highway-construction-cost-inflation-did-not-slow-in-2q-2023-15-3-annual-rate/.

[47] 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 Does Inflation Affect Construction Industry?*, THE CONSTRUCTOR, *available at* https://theconstructor.org/construction/inflation-affect-construction-industry/565090/.

risen by 59.3 percent, when compared to the end of 2020.[48] Recently released data indicates that the cost of building highways rose 3.8 percent when compared to the previous quarter.[49]

OFFICE OF MULTIMODAL FREIGHT INFRASTRUCTURE AND POLICY

In an effort to tackle additional factors impacting the supply chain, Congress implemented several policies, however, DOT has not yet executed them all. 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 while 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.[50] 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.[51] 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.[52]

OCEAN SHIPPING REFORM ACT & OCEAN SHIPPING REFORM IMPLEMENTATION ACT

In response to supply chain challenges, in June of 2022, the Ocean Shipping Reform Act (P.L. 117–146) was signed into law.[53] This legislation provided expanded authorities to the Federal Maritime Commission (FMC), which regulates ocean shipping, to protect and ensure fairness for United States shippers as they engage in international trade.[54] This Congress, the Committee continued its work to address supply chain challenges by favorably reporting H.R. 1836, the Ocean Shipping Reform Implementation Act, legislation that builds upon the authorities in the Ocean Shipping Reform Act.[55] This legislation would limit foreign influence over United States supply chains and updates Federal policy governing international ocean shipping.[56]

V. WITNESSES

- Mr. Stephen A. Edwards, Chief Executive Officer and Executive Director, Virginia Port Authority
- Mr. Roger Millar, Secretary of Transportation, Washington State Department of Transportation
- Mr. Jeffrey G. Tucker, Chief Executive Officer, Tucker Company Worldwide, *on behalf of* Transportation Intermediaries Association (TIA)
- Ms. Lauren Benford, Controller, Reiman Corporation, *on behalf of* Associated General Contractors of America (AGC)

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[48] *Id.*

[49] Jeff Davis, *Highway Construction Cost Inflation Did Not Slow in 2Q 2023—15.3% Annual Rate*, ENO CTR. FOR TRANSP., (Dec. 21, 2023), *available at* https://enotrans.org/article/highway-construction-cost-inflation-did-not-slow-in-2q-2023-15-3-annual-rate/.

[50] 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-progressIIJA; Dashboard, *supra* note 5.

[51] Letter from Agriculture Transp. Coalition, et al., to the Hon. Pete Buttigieg, Sec'y, DOT (Aug. 30, 2023) (on file with Comm.).

[52] *Id.*

[53] Pub. L. No. 117–146, 136 Stat. 1272.

[54] *Id.*

[55] Ocean Shipping Reform Implementation Act, H.R. 1836, 118th Cong. (2023).

[56] *Id.*

THE STATE OF TRANSPORTATION

WEDNESDAY, JANUARY 17, 2024

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

The committee met, pursuant to call, at 10 a.m., in room 2167 Rayburn House Office Building, Hon. David Rouzer (a majority member of the committee) presiding.

Mr. ROUZER. The Committee on Transportation and Infrastructure 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.

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

Obviously, I am not Sam Graves. The chairman is tied up trying to get to DC like so many people are, and so, I have been asked to fill in in his stead.

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

OPENING STATEMENT OF HON. DAVID ROUZER OF NORTH CAROLINA, A MAJORITY MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. ROUZER. We are here today to discuss the state of the transportation network and our Nation's ability to effectively and efficiently move goods through our supply chain. To achieve this goal, we must make targeted investments to improve the infrastructure our shippers, truckers, and freighters rely on. We have work to do to improve our transportation network, and we have a responsibility to ensure that taxpayer funds are directed to projects that strengthen this system.

Despite the clear needs of our system, the administration continues to push its green agenda through onerous regulations onto the American people instead of focusing its efforts on promptly distributing funds to projects that will meaningfully improve our roads, bridges, and ports. A recent example of these misguided regulations is the Federal Highway Administration's latest greenhouse gas emissions rule, something Congress expressly left out of the Infrastructure Investment and Jobs Act.

However, our infrastructure system is just one factor to consider as we assess the state of transportation in the country. We also have to examine our supply chain. The pandemic previously exposed vulnerabilities in our supply chain, and today's global conflicts are presenting new and complex challenges we must address, as well. For example, the United States Navy is currently leading the international coalition to repel Houthi militant attacks that are threatening a critical global shipping route in the Red Sea. These threats have forced major carriers to opt for longer, more costly shipping routes as they pause operations in the area.

And closer to home, the migrant crisis at our southern border has led to repeated closures of rail border crossings. As a result, rail operations were suspended, halting the movement of critical goods between the United States and Mexico in order to process the influx of migrant crossings.

I look forward to hearing from each of our witnesses today about the realities on the ground. The committee stands ready to provide dozens—pardon me. We will have dozens of solutions, but the committee stands ready to provide solutions. In May of last year, we advanced more than a dozen bills targeting supply chain challenges. The testimony provided today will give us greater insight into what is working and what is not.

We look forward to working with you to strengthen our Nation's transportation network.

[Mr. Rouzer's prepared statement follows:]

Prepared Statement of Hon. David Rouzer, a Representative in Congress from the State of North Carolina, and a Majority Member, Committee on Transportation and Infrastructure

We are here today to discuss the state of our transportation network and our nation's ability to effectively and efficiently move goods through our supply chain.

To achieve this goal, we must make targeted investments to improve the infrastructure our shippers, truckers, and freighters rely on.

We have work to do to improve our transportation network, and we have a responsibility to ensure that taxpayer funds are directed to projects that strengthen this system.

Despite the clear needs of our system, the Administration continues to push its green agenda through onerous regulations onto the American people instead of focusing its efforts on promptly distributing funds to projects that will meaningfully improve our roads, bridges, and ports.

A recent example of these misguided regulations is the Federal Highway Administration's latest greenhouse gas emissions rule, something Congress expressly left out of the Infrastructure Investment and Jobs Act (IIJA).

However, our infrastructure system is just one factor to consider as we assess the state of transportation in the country.

We also have to examine our supply chain. The pandemic previously exposed vulnerabilities in our supply chain, and today's global conflicts are presenting new and complex challenges we must address.

For example, the United States Navy is currently leading the international coalition to repel Houthi militant attacks that are threatening a critical global shipping route in the Red Sea. These threats have forced major carriers to opt for longer, more costly shipping routes, as they pause operations in the area.

And closer to home, the migrant crisis at our southern border has led to repeated closures of rail border crossings. As a result, rail operations were suspended—halting the movement of critical goods between the United States and Mexico in order to process the influx of migrant crossings.

I look forward to hearing from each of our witnesses today about the realities on the ground.

This committee stands ready to provide solutions—in May of last year we advanced more than a dozen bills targeting supply chain challenges. The testimony provided today will give us greater insight into what's working and what's not.

We look forward to working with you to strengthen our nation's transportation network.

Mr. ROUZER. I now recognize Ranking Member Larsen for an opening statement for 5 minutes.

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

Mr. LARSEN OF WASHINGTON. Thank you, Chair Rouzer, for holding this hearing on the state of transportation. And if Sam needs to call anyone about getting into DC, I am sure he knows someone. It has been a rough, rough time for a lot of travelers over the last week, for sure.

This committee has a great story to tell when it comes to transportation, and I am pleased that today's hearing gives us a chance to do that. We will find the state of transportation is strong, thanks to historic levels of transportation investment. Last Congress, this committee answered the calls of States, local and Tribal governments, transit agencies, rail, airports, and ports to provide a much-needed boost to the transportation network.

Investments from the Bipartisan Infrastructure Law and the Inflation Reduction Act have helped improve the economy and the state of transportation. By passing these bills, Congress gave the construction industry longer term stability and certainty. As Ms. Benford's testimony points out, if Congress had not passed the BIL, contractors "would likely have seen a cut of 20 to 30 percent in the work they were able to bid on."

Congress also gave communities across the country the means to take on game-changing projects. In the first years of the BIL, U.S. DOT distributed over $262 billion for States, localities, transit agencies, railroads, airports, and ports to carry out upgrades and priorities, and more is on the way. This includes $185 billion in highway funds, $41 billion in transit funds, and nearly $13 billion in airport funds.

BIL funds have already supported over 40,000 projects that the U.S. DOT administers, and in the 2 years since enactment, States have invested Federal highway dollars into tens of thousands of additional projects. And today, there is at least one new project in every congressional district, thanks to the BIL. Projects across the country mean construction jobs in every region of the country, jobs with good wages, benefits, and working conditions. The BIL investment also means more jobs in transit, trucking, aviation, rail, and maritime sectors.

The challenge now is to build and maintain a sufficient pool of skilled workers to tackle all the project opportunities offered by the BIL, and Mr. Millar's testimony from the great State of Washington notes that the entire transportation industry is facing workforce challenges.

The BIL includes over $800 million in dedicated funding to train workers for in-demand jobs in manufacturing, semiconductors, and more. It also includes new flexibility for State DOTs to use highway formula funds for apprenticeships, pre-apprenticeships, and community college and vocational school partnerships. I look forward to learning what more Congress can do to support workforce development and training.

The state of freight transportation is also strong, thanks to congressional and administrative actions in response to global shocks in the aftermath of the pandemic. The chair mentioned the work that this committee has done specifically over the last year, and BIL funding is helping, as well, helping ports move cargo more efficiently, reduce emissions, and compete globally.

BIL funding is also helping to tackle the biggest surface transportation bottlenecks. The passage and implementation of the bipartisan Ocean Shipping Reform Act of 2022, which originated in this committee, thanks to Mr. Johnson and Mr. Garamendi, has also helped to support a stronger supply chain.

As we will hear in Mr. Edwards' testimony today, the international supply chain normalized in 2023. Shipping container rates have fallen, port congestion has eased, shipper complaints have received quicker action and positive outcomes, and the Federal Maritime Commission has enhanced fee fairness and transparency. These reforms mean that when new international challenges arise and strain the global and domestic supply chain, the U.S. will be better prepared to react.

So, today's hearing is a welcome review of how well infrastructure investments are working. But keeping our transportation systems in good repair, resilient, and ready for the future freight and passenger demand will require an ongoing investment. Reliable and robust investment in infrastructure is key to the long-term success and sustainability of our transportation systems and supply chain networks for decades to come, and I am committed to working with the chair of the full committee—and even his substitute here today—to ensure this committee continues to provide the necessary resources to support the economy, the traveling public, and America's transportation workers.

And I want to thank the witnesses for being here today to help us out.

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

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

Thank you, Chairman Rouzer, for holding this hearing on "The State of Transportation."

This Committee has a great story to tell when it comes to transportation. I am pleased that at today's hearing, we will find that the state of transportation is strong, thanks to historic levels of infrastructure investment.

Last Congress, this Committee answered the call of states, local and Tribal governments, transit agencies, railroads, airports and ports to provide a much-needed boost to transportation networks.

Investments from the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA) have helped improve the economy and the state of transportation.

By passing these bills, Congress gave the construction industry longer-term stability and certainty. As Ms. Benford's testimony points out, if Congress had not passed the BIL, contractors "would likely have seen a cut of 20–30 percent in the work they were able to bid on."

Congress also gave communities across the country the means to take on game-changing projects. In the first two years of the BIL, U.S. DOT distributed over $262 billion for states, localities, transit agencies, railroads, airports and ports to carry out upgrades and priorities—and more is on the way. This includes $185 billion in highway funds, $41 billion in transit funds, and nearly $13 billion in airport funds.

BIL funds have already supported over 40,000 projects administered by U.S. DOT. In the two years since enactment, states have invested federal highway dollars into tens of thousands of additional projects.

Today, there is at least one new project in every Congressional district thanks to the BIL.

Projects across the country means construction jobs in every region of the country—jobs with good wages, benefits, and working conditions. BIL investment also means more jobs in the transit, trucking, aviation, rail and maritime sectors.

The challenge now is to build and maintain a sufficient pool of skilled workers to tackle all the project opportunities offered by the BIL. Mr. Millar's testimony, from the great State of Washington, notes that the entire transportation industry is facing workforce challenges.

The BIL includes over $800 million in dedicated funding to train workers for in-demand jobs in manufacturing, semiconductors and more.

It also includes new flexibility for state DOTs to use highway formula funds for apprenticeships, pre-apprenticeships, and community college and vocational school partnerships. I look forward to learning what more Congress can do to support workforce development and training.

The state of freight transportation is also strong thanks to Congressional and Administrative actions in response to global shocks in the aftermath of the pandemic. The Chairman mentioned the work that this Committee has done specifically over the last year and BIL funding is helping as well.

Funding is helping ports move cargo more efficiently, reduce emissions and better compete globally. BIL funding is also helping tackle the biggest surface transportation bottlenecks.

The passage and implementation of the Ocean Shipping Reform Act of 2022 (OSRA), which originated in this Committee thanks to Mr. Johnson and Mr. Garamendi, has helped support a stronger supply chain.

As we will hear in Mr. Edwards' testimony today, the international supply chain normalized in 2023. Shipping container rates have fallen, port congestion has eased, shipper complaints have received quicker action and positive outcomes, and the Federal Maritime Commission has enhanced fee fairness and transparency.

These reforms mean that when new international challenges arise and strain the global and domestic supply chain, the U.S. will be better prepared to react.

Today's hearing is a welcome review of how well infrastructure investments are working.

But keeping our transportation systems in good repair, resilient, and ready for future freight and passenger demand will require ongoing investment.

Reliable and robust investment in infrastructure is key to the long-term success and sustainability of our transportation systems and supply chain networks for decades to come.

I am committed to working with Chairman Graves to ensure this Committee continues to provide the necessary resources to support the economy, the traveling public, and America's transportation workers.

Thank you to our witnesses for being here today to help us out.

Mr. LARSEN OF WASHINGTON. And, Mr. Chair, before we get started, if I could just ask an indulgence to do a quick introduction of Mr. Millar.

Mr. ROUZER. So ordered.

Mr. LARSEN OF WASHINGTON. Thank you. We are going to hear from the secretary of transportation of the Washington State Department of Transportation, Roger Millar, who is here today, despite our own State legislature just having opened up their session. So, he has probably got time to testify, answer questions, and get the heck out of Dodge, get back home.

But he was our deputy secretary in 2015 and appointed secretary in August of 2016. He oversees an agency that is the steward of a complex, multimodal transportation system and responsible for ensuring that people and goods move safely and efficiently.

I won't go into his full biography, but he has been active in groups that are very familiar to us, including being the past president of AASHTO, he serves on the board of directors there, as well as is actively involved in a variety of engineering groups, intelligent transportation system groups, as well as a variety of other infrastructure.

So, it is great to have Roger here in town for the few moments he could spare with us to help us out.

So, with that, I yield back.

Mr. ROUZER. I thank the gentleman.

I ask unanimous consent to enter into the record a letter from the American Traffic Safety Services Association dated January 17, 2024.

Without objection, so ordered.

[The information follows:]

Statement of the American Traffic Safety Services Association, Submitted for the Record by Hon. David Rouzer

The American Traffic Safety Services Association (ATSSA) appreciates the opportunity to submit this Statement for the Record to the House Committee on Transportation and Infrastructure (Committee) regarding the hearing entitled "The State of Transportation."

Given the important role that the Infrastructure Investment and Jobs Act (IIJA) has in meeting this nation's transportation investment needs, the Committee is to be commended for providing the necessary oversight of its implementation.

Incorporated in 1970, ATSSA is an international trade association with more than 1,500 members who are focused on advancing roadway safety. ATSSA members manufacture, distribute, and install roadway safety infrastructure devices such as guardrail and cable barrier, traffic signs and signals, pavement markings and high friction surface treatments, and work zone safety devices, among many others. As a leader in roadway safety infrastructure, ATSSA was the first non-governmental organization to adopt a Towards Zero Deaths vision and ATSSA members are committed to making zero fatalities a reality nationwide.

ATSSA members are grateful to Congress for the emphasis on safety in the IIJA. For example, the IIJA funds the Highway Safety Improvement Program (HSIP) at $16.8 billion over five years, which represents an important and much-needed increase over prior authorization legislation. The HSIP provides dedicated funding to help state DOTs and local governments meet today's roadway infrastructure safety needs, be proactive in preventing future roadway hazards, and reduce highway fatalities and injuries.

But just as important as IIJA federal funding is for meeting roadway safety needs across the country and reducing traffic fatalities, the implementation of many IIJA policy provisions can be just as impactful. One policy area that continues to cause great concern to ATSSA members is the new Build America, Buy America (BABA) requirements.

The Office of Management and Budget (OMB) has issued final guidance related to the updated BABA provisions of the IIJA. This new guidance went into effect on October 23rd and since that time, there has been considerable confusion across the country on how this guidance will be implemented by state departments of transportation (state DOTs).

After the effective date of the OMB final guidance, ATSSA has heard from our members in various states about the lack of clarity and consistency in how state DOTs will implement new BABA requirements. The lack of uniformity across states is not only creating considerable confusion but is leading to a fear that the BABA implementation will result in different requirements and certification processes for all 50 states.

OMB clearly anticipated the possible need for further Federal agency implementation guidance and information, stating in the August 23rd Federal Register Guidance for Grant Agreements that: "*It is not possible for OMB to issue comprehensive guidance on every issue that may arise for different Federal agencies in the context of directly implementing their own unique Federal financial assistance programs . . .*".[1]

[1] Office of Management and Budget Federal Register Guidance for Grant Agreement, August 23, 2023: https://www.govinfo.gov/content/pkg/FR-2023-08-23/pdf/2023-17724.pdf

The OMB guidance goes on further to say: *Federal agencies, in directly implementing BABA, may issue further guidance and provide further information to their recipients and other stakeholders on their own Federal financial assistance programs for infrastructure*.[2]

Given the impact of this final OMB guidance on ATSSA members, we continue to ask that the U.S. Department of Transportation (USDOT) provide the critically necessary clarity to minimize disruptions and address concerns being raised across the country. This additional clarity would not only benefit ATSSA members but state DOTs and other transportation industry stakeholders.

ATSSA members are responsible for manufacturing and installing critical, lifesaving infrastructure on our nation's roadways and they work hard every day to improve roadway safety. By USDOT not yet providing this additional guidance related to the implementation of the BABA provisions, there could be unnecessary delays, cancellations, or increased costs on roadway infrastructure projects—a result that no one wants to see.

With the construction season fast approaching in all parts of the country, it is important that every effort be made to assist state DOTs and the transportation industry in meeting the compliance requirements of the BABA provisions. We are currently at a critical time in the manufacturing process when inventory is stockpiled in preparation for hundreds of infrastructure projects being planned in every state. However, the lack of consistency among state DOTs on implementation of the BABA provisions could lead manufacturers to delay producing critical products because of uncertainty related to product approval and inclusion on various state Approved Products Lists. This uncertainty for manufacturers could lead to additional product shortages and could impact important lifesaving roadway safety infrastructure projects.

ATSSA recognizes the importance that this Committee places on safety—both for users of the transportation system and the construction workers who make our roadways safer every day. As this Committee continues its oversight of the IIJA, ATSSA members ask for your assistance in ensuring the necessary BABA information and clarity is made available. ATSSA stands ready to assist our partners in Congress, USDOT and elsewhere in this important task.

Mr. ROUZER. I would like to thank our witnesses for being here today. We are looking very much forward to your testimony.

Briefly, I would like to take a moment to explain our lighting system to you. I think you know it pretty well, but there are three lights, obviously. Green means go, yellow means your time is coming to an end, and then red means wrap up just as quickly as you possibly can.

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

Without objection, so ordered.

I also 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 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 committee asks that each of you keep your oral remarks to 5 minutes, if possible.

With that, Mr. Stephen Edwards, CEO and executive director of the Virginia Port Authority, you are recognized for up to 5 minutes.

If you can, turn your microphone on and maybe bring it closer to you, as well.

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[2] Office of Management and Budget Federal Register Guidance for Grant Agreement, August 23, 2023: https://www.govinfo.gov/content/pkg/FR-2023-08-23/pdf/2023-17724.pdf

Mr. EDWARDS. Thank you so much.

TESTIMONY OF STEPHEN A. EDWARDS, CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, VIRGINIA PORT AUTHORITY; ROGER MILLAR, PE, FASCE, FAICP, SECRETARY, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION; JEFFREY G. TUCKER, CHIEF EXECUTIVE OFFICER, TUCKER COMPANY WORLDWIDE, INC., ON BEHALF OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION; AND LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

TESTIMONY OF STEPHEN A. EDWARDS, CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, VIRGINIA PORT AUTHORITY

Mr. EDWARDS. So, thank you, Chairman Rouzer, Ranking Member Larsen, and distinguished members of the House Transportation and Infrastructure Committee, for inviting me to participate in today's hearing. My name is Stephen Edwards and, as mentioned, I am the CEO and executive director of the Virginia Port Authority.

The port authority operates five marine terminals and one inland rail port. We are the third largest container port on the east coast. As an operating port, we have the responsibilities of a port authority and a marine terminal operator; we manage asset procurement and maintenance and technology systems; and we operate the Hampton Roads Intermodal Chassis Pool.

The Port of Virginia's tagline is "America's Most Modern Gateway," and we are proud of our ranking as the highest performing major North American container port in both 2021 and 2022, at a time of stress in supply chains. During this period, we were the fastest growing major American port in 2021, and over the 2-year period, second behind Houston.

Presently, I have responsibility for a $1.4 billion gateway investment program, including deepening and widening channels in partnership with the Army Corps, expansion of semi-automated container capacity, berth strengthening, increased crane capability, advanced rail, and an offshore wind hub. And this is coupled with a State investment of circa $5 billion of capital improvements in tunnels, roads, and private-sector investment in logistics parks. In totality, we really take the view of sea buoy to last-mile delivery, and from farm to ocean.

As a port, as the largest east coast rail hub, we service all of the Ohio Valley and Midwest States and further west, and our truck market largely services Virginia, North Carolina, Maryland, Pennsylvania, and West Virginia. This month, we announced that the port is powering our electricity needs with 100 percent clean power.

If I turn to the supply chain and performance, it has been well documented that the international supply chain experienced stress in 2021 and 2022, which impacted gateways to differing degrees, and in certain ports, harmed exporters. The Port of Virginia was pleased to operate to a high level in this period. Our operating model was capable to deliver good service and adjust to many challenges.

Overall, the international intermodal supply chain normalized across the Nation in 2023. Dwell times for cargo reduced, resulting in lower yard utilizations, greater chassis availability, and now the opportunity to invest in capacity expansion within facilities, and international freight rates have reduced to close to pre-pandemic levels.

Over the course of the last 5 years, the higher growth market for east coast ports have been the Indian subcontinent, Middle East, and Southeast Asia, while Northeast Asia remains the largest trade lane by volume. These markets are served by the largest ships in the world, and this means improved navigation channels required stronger berths, crane capability, and modern operating ports. The work this committee is doing to pass the Water Resources Development Act this year is essential to maintaining U.S. port competitiveness, including a needed project modification for Norfolk Harbor and channels.

If I can turn to the international challenges of today, the Panama Canal first is experiencing a severe drought which has restricted vessel transits. Today, the acute need for transit means vessels must make their reserved slots, and port operators need to ensure vessels to pass on time. The canal is presently transiting 22 to 24 vessels per day, compared to a normal 36 to 40. Vessel delays differ by operator. The largest container vessel users of the canal who historically reserved slots may not be delayed, but others are experiencing severe delay or are paying much higher transit fees to secure their slots. Water levels historically do not rise until June. Fortunately, better than expected November rainfall has not required the Panama Canal to further reduce.

If I turn to the Red Sea, the recent attacks on merchant shipping in the Red Sea has resulted in most container vessels diverting to routes around Africa. Initially, this has disrupted schedules for Asia-North Europe, Asia-Mediterranean, and Asia-east coast services. The other impact has been a delay in return of container supply to Asia, which has in part contributed to supply constraints and an increase in freight rates on all trade lanes from Asia.

Fuel prices have not increased. This is important because as the shipping lines plan for around Africa voyages, the increased vessel and fuel costs can be offset by the decrease in Suez Canal fees. This is particularly true for Southeast Asia to U.S. east coast services. It is not the same for Asia to North Europe or Asia to the Mediterranean, where deviation and the European Union Emissions Trading System increases voyage costs on longer voyages.

What must be remembered is that vessels need to be sourced and positioned to fill in weekly schedules. This, along with increased at-sea time for container box fleets, tightens the supply side of assets. This tightening of supply may be felt across global trade lanes as vessels and containers are repositioned to where they are most needed.

Finally, protecting freedom of navigation in all waters is a requirement of free and fair global trade. On behalf of the Port of Virginia and my colleagues, I recognize the extraordinary service of our men and women in the military who are active in the Red Sea, many of whom are, of course, deployed from our port.

Thank you, and I would be glad to answer questions the committee may have.

[Mr. Edwards' prepared statement follows:]

Prepared Statement of Stephen A. Edwards, Chief Executive Officer and Executive Director, Virginia Port Authority

BACKGROUND

Thank you, Chairman Graves, Ranking Member Larsen, and distinguished members of the House Transportation and Infrastructure Committee for inviting me to participate in today's hearing. My name is Stephen Edwards, and I am the CEO and Executive Director of the Virginia Port Authority.

The Virginia Port Authority (VPA) is a political subdivision of the Commonwealth of Virginia. The VPA operates five marine terminals and one inland rail port. We are the third largest container port on the East Coast. As an operating port we have the responsibilities of a port authority and a marine terminal operator; we manage asset procurement and maintenance and technology systems; and we operate the Hampton Roads Chassis Pool—a best in class intermodal marine chassis fleet.

The Port of Virginia's tag line is "America's Most Modern Gateway". We are proud of our ranking as the highest performing major North American container port in both 2021 and 2022 [1] at a time of stress in supply chains. During this period we were the fastest growing American container port in 2021, and over the two year period, second behind Houston.

Presently we have responsibility for a $1.4 billion gateway investment program. This program includes deepening and widening channels (in partnership with the Army Corp of Engineers), expansion of our semi-automated container capacity, berth strengthening, increased crane capability, advanced rail, and an offshore wind hub. This is coupled with a regional ~$5 billion capital investment in improved tunnels and major roads and significant private sector investment in logistics parks. In totality, these investments extend from sea buoy to last mile delivery and from farm to ocean.

The port is the largest East Coast rail hub and serves cargoes to and from Ohio, Illinois, Missouri, Michigan, Kentucky, Tennessee and markets further West. Our truck market largely serves Virginia, North Carolina, Maryland, Pennsylvania, and West Virginia.

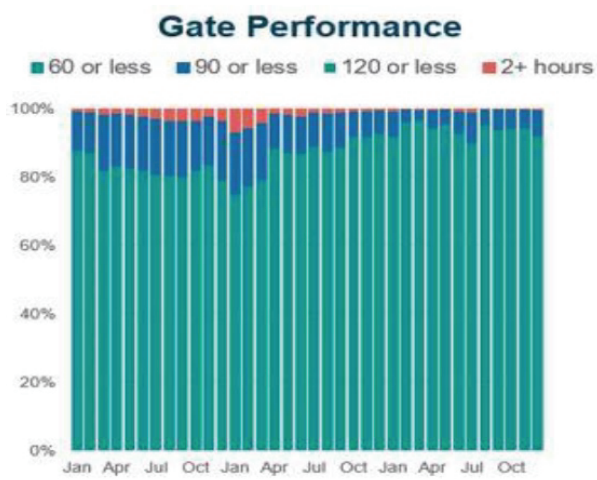
This month we announced that the port is powering our electricity needs with 100% clean power.

SUPPLY CHAIN PERFORMANCE

It has been well documented that the international supply chain experienced stress in 2021 and 2022. There were many causes by example, overseas zero COVID policy impacting factory production, just in case vs just in time delivery to overcome production risk, but most notably the surge in domestic goods consumption resulting in high import levels, longer cargo dwell times and staging into warehousing and rail facilities, which impacted gateways to differing degrees and in certain ports harmed exporters.

The Port of Virginia was pleased to operate to a high level in this period. Our operating model was capable to deliver good service metrics and adjust to the many challenges.

[1] World Bank: Ports greater than 1 million TEU



Overall the international intermodal supply chain normalized across the nation in 2023. Dwell times for cargo reduced, resulting in lower yard utilizations, greater chassis availability, and the opportunity to invest in capacity expansion within facilities, and international freight rates have returned to close to pre-pandemic levels.

Source: Alphaliner

Over the course of the last five years the higher growth markets for East Coast ports by trade lane are the Indian Sub-Continent/Middle East and South East Asia while North East Asia remains the largest trade lane by volume. These markets are served via the largest ships presently calling the East Coast at 16,000TEU+ and reflect the need for ultra large container vessel capability. This means improved navigation channels, stronger berths, increased crane capability, and modern operating terminals. The work this committee is doing to pass the Water Resources Development Act this year is essential to maintaining US port competitiveness, including a needed project modification for Norfolk Harbor and Channels.

USEC Volume (Loaded TEUs, Millions)	2019	2020	2021	2022	2023	2022 vs 2020	2023 vs 2019
NORTH EAST ASIA	5.35	5.32	5.83	5.82	5.02	9.3%	–6.2%
NORTH EUROPE	2.76	2.54	2.83	2.82	2.53	11.3%	–8.2%
SOUTH EAST ASIA	2.07	2.29	2.52	2.69	2.58	17.9%	24.4%
CARIBBEAN / CENTRAL AMERICA	2.25	2.14	2.37	2.26	2.03	5.8%	–9.8%
INDIAN SUB-CONTINENT / MIDDLE EAST	1.69	1.57	2.03	2.16	1.99	37.8%	18.0%
MEDITERRANEAN	1.65	1.65	1.93	1.93	1.65	16.9%	–0.1%
SOUTH AMERICA	1.27	1.26	1.40	1.39	1.23	10.7%	–3.2%
AFRICA	0.35	0.31	0.37	0.34	0.32	9.3%	–7.0%
AUSTRALIA / NEW ZEALAND	0.18	0.17	0.19	0.22	0.19	30.3%	7.5%
GREENLAND	0.03	0.03	0.05	0.03	0.02	–21.9%	–35.6%
Grand Total	**17.6**	**17.3**	**19.5**	**19.7**	**17.6**	**13.8%**	**–0.2%**

Source: S&P Global, MP2 (calendar 2023 includes uncertified December exports).

Panama Canal

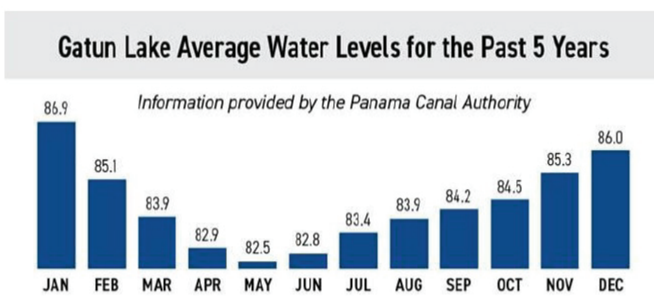
The Panama Canal is experiencing a severe drought which has restricted vessel transits. Today the acute need for transit means vessels must make their reserved slots, and port operators need to ensure vessels depart on time.

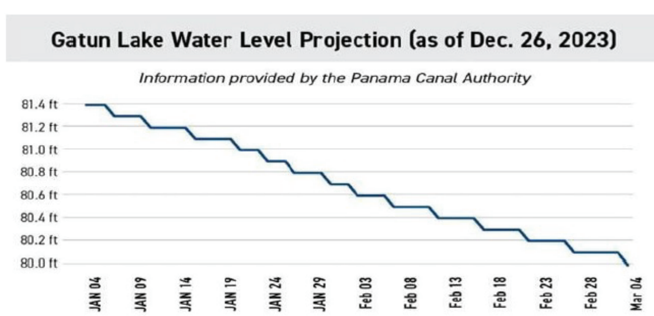
The canal is presently transiting 22 to 24 vessels per day compared to a normal 36 to 40. The majority of vessels diverted away from the canal are in the bulk and commodity trades where reservations are not possible due to the nature of the trade.

Vessel delays by operator differ, I understand the largest container vessel users of the canal who historically reserve slots are not significantly delayed while others are delayed or paying much higher transit fees.

Water levels historically do not begin to rise until June, but better than expected November rainfall and water-saving measures has allowed the Panama Canal Authority to cancel the need to further reduce transits.

Ocean carriers have adjusted their service patterns which has resulted in improved global connectivity from The Port of Virginia.

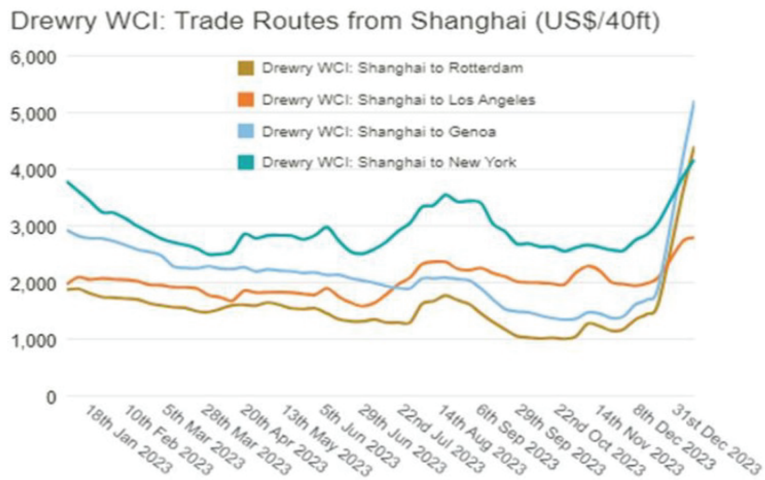




RED SEA

The recent attacks on merchant shipping in the Red Sea has resulted in most container vessels diverting to route around Africa.

Initially this has disrupted schedules for Asia-North Europe, Asia-Mediterranean, and Asia-USEC services. This initial disruption has included the need for fueling in South Africa, discharge of Mediterranean cargoes in western vs eastern Mediterranean ports for transshipment, and overall longer transits. The other impact has been a delay in return of container supply to Asia which has in part contributed to supply constraint and an increase in freight rates on all trade lanes from Asia.



Source: Drewry

Fuel prices have not increased. This is important because as shipping lines plan for around Africa voyages the increased vessel and fuel costs can be offset by the decrease in Suez Canal fees. For a S.E. Asia to USEC service, an extra round trip of 14 days (7 days in each direction) at today's fuel price does not automatically mean an increased total voyage cost.

Source: Ship & Bunker

This is not the same for Asia to North Europe or Asia to Mediterranean, where deviation and the European Union Emissions Trading System increase costs on longer voyages.

It must also be remembered that vessels need to be sourced and positioned to fill in weekly schedules. This along with increased at sea time for container box fleets tightens the supply side of assets. This tightening of supply may be felt across global trade lanes as vessels and containers are repositioned to where they are most needed.

While containerized ocean carriers have seen increased freight rates and share prices as a result of the tightened supply, my conversations with executives and public comments all point to the desire to return to normal transit patterns as soon as practical.

Protecting freedom of navigation in all waters is a requirement of free and fair global trade. On behalf of The Port of Virginia and my colleagues I recognize the extraordinary service of our men and women in the military who are active in the Red Sea, many of whom are deployed from our port.

Thank you. I would be glad to answer questions the Committee might have.

Mr. ROUZER. I thank the gentleman. We will now move to Mr. Roger Millar, secretary of transportation for the Washington State Department of Transportation.

You are now recognized for up to 5 minutes.

TESTIMONY OF ROGER MILLAR, PE, FASCE, FAICP, SECRETARY, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Mr. MILLAR. Thank you, Chair Rouzer and Ranking Member Larsen, for inviting me to testify today to discuss the state of transportation. My name is Roger Millar, and I serve as secretary of transportation in Washington State.

My remarks today will focus on how we are implementing funds through the Bipartisan Infrastructure Law, and summarize a few of the challenges we are experiencing, including those related to project cost escalation.

I want to start by thanking the Congress for passing the Infrastructure Investment and Jobs Act, which will provide over $5 billion in Federal funding for Washington State over the life of the act. While the act only requires States to suballocate portions of three of the formula programs, in Washington, we suballocate 41 percent of all of our Federal-aid formula funds to our local partners, and then we work closely with them to support successful obligation of their Federal funding.

To date, we have used funding from the act on more than 370 projects managed by WSDOT, including safety improvement projects, stormwater and culvert replacement projects, roadway preservation projects, and bridge preservation projects. As we deliver projects with funding from the act, we strive to ensure that the projects benefit all Washingtonians, including being more inclusive in our contracting work. WSDOT is a national model for disadvantaged business enterprise participation, and for the Federal fiscal year 2023 our DBE participation rate was nearly 19 percent, putting $111 million into that community.

The National Electric Vehicle Infrastructure Program and the Electric or Low-Emitting Ferry Pilot Program are two examples of new programs in the act that we are implementing. We are leveraging Federal funds with State dollars for this important work, increasing both the impact of Federal funding and our ability to reach our decarbonization and efficiency goals.

We also appreciate the new discretionary grant programs that support large, transformative projects through multiyear grant agreements, and/or funding pipelines. For example, WSDOT was recently notified that we will receive a $600 million Mega grant award for the Interstate Bridge Replacement Project. This project will replace the Interstate 5 Bridge which connects Washington and Oregon and serves as a critical connection for regional, national, and international trade. Replacing this aging bridge with a crossing that can meet the needs of all travelers for generations to come is of the highest priority.

Our implementation of programs in the act is not without its challenges. For years, infrastructure investment did not keep pace with needs. The impacts of a lack of adequate investment to preserve, make safe, and enhance our systems for all users are readily apparent and will take time and hard work to overcome.

Currently, WSDOT has less than half of the funding we need to keep our system in a state of good repair. Like DOTs across the country, we are experiencing cost escalation for some of our projects. The COVID pandemic placed an unprecedented strain on the supply chain, resulting in increased material costs. While we are no longer experiencing the same supply chain issues that we did in 2020 to 2022, workforce availability remains a challenge for the entire transportation sector and affects schedule, ultimately affecting overall project costs.

DOTs, engineering consultants, labor, contractors, and suppliers are ramping up to deliver the programs funded through BIL, but a massive increase in projects requires a substantial workforce increase, as well. We hope that through future reauthorizations, Congress will provide a robust and sustained level of funding as our Federal partner so that everyone, especially our private-sector partners, will invest to ramp up, keep up, and deliver on these vital projects.

We also need to do more to encourage women, people of color, and other underrepresented groups to study and work in transportation engineering and the construction trades to help build the strong, diverse workforce our programs and projects require.

Another challenge we are having is related to the process known as August redistribution. In the past, Washington has been very successful in obligating all of our Federal funds and using the additional obligation authority that has come our way through the redistribution process. But our success means that we are reaching our contracting authority limits under the act, which will decrease our capacity to continue to utilize the redistributed obligation authority. And we are not unique in that case. Staff from AASHTO has been working with FHWA on suggestions for solutions to maximize highway formula dollars provided to State DOTs, and are sharing those ideas with Congress.

Thank you again for the honor and opportunity to testify today. We appreciate having a strong Federal partner. We are working diligently to use our Federal funds to preserve and modernize our multimodal transportation system for all users.

I am happy to answer any questions you might have.

[Mr. Millar's prepared statement follows:]

Prepared Statement of Roger Millar, PE, FASCE, FAICP, Secretary, Washington State Department of Transportation

INTRODUCTION

Thank you, Chairman Graves and Ranking Member Larsen for inviting me to testify today to discuss the state of transportation.

My name is Roger Millar, and I serve as Secretary of the Washington State Department of Transportation (WSDOT). I joined WSDOT as Deputy Secretary in October 2015 and was appointed Secretary of Transportation in August 2016. I've spent over 45 years working in the transportation industry at the local and state level and in the private sector. The prominent theme that has run through my career has been planning and implementing transportation systems that are not ends unto themselves; but rather the means toward economic vitality, environmental stewardship, social equity, public health, and aesthetic quality. I serve as a member of the Board of Directors of the American Association of State Transportation Officials (AASHTO) and served as 2022–2023 AASHTO President. In addition, I served as 2021–2022 Board Chair for the Intelligent Transportation Society of America (ITSA) and as 2022–2023 President of the American Society of Civil Engineers Transportation and Development Institute (ASCE T&DI).

I oversee an agency that is the steward of Washington state's multimodal transportation system and responsible for ensuring that people and goods move safely and efficiently. In addition to building, maintaining, and operating the state highway system, WSDOT operates the largest ferry system in the nation, sponsors the Amtrak Cascades intercity passenger rail service, owns and operates 16 airports, and owns a 300-mile short-line freight rail system. We work in partnership with others to maintain and improve local roads, railroads and airports, as well as to support mobility options such as public transportation, bicycle, and pedestrian programs. I'm here today to speak about the state of the nation's transportation infrastructure and supply chain issues.

IMPLEMENTATION OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT

I want to start by thanking Congress for passing the Infrastructure Investment and Jobs Act (IIJA) / Bipartisan Infrastructure Law (BIL) which will provide over $5 billion dollars in federal funding for Washington state over the life of the bill. While the IIJA only requires states to suballocate portions of three formula programs, in Washington, we suballocate 41 percent of our total federal-aid formula funds to local partners and we are working closely with them to support successful obligation of their federal funding. Federal funding currently comprises approximately 30 percent of the Department's total transportation budget, a historic high, and we are working diligently to put these funds to good use. To date we have used funding from the IIJA on more than 370 projects managed by WSDOT including 5 safety improvement projects, 28 environmental improvements like stormwater retrofits and fish barrier corrections, 137 roadway preservation projects and 93 bridge preservation projects.

In addition to increases in formula funding for longstanding programs, we also appreciate the new programs created under IIJA. In Washington state we are leveraging state funding to amplify the benefits of our federal contributions to meet important state goals. For example, the National Electric Vehicle Infrastructure program aligns with our state's goal of decarbonizing our transportation system and ensuring that all Washingtonians and visitors can use an Electric Vehicle and find convenient, reliable and accessible fast-charging stations. Our NEVI Plan Update was recently approved by the Federal Highway Administration (FHWA) and later this year we plan to issue a Request for Proposals for deploying fast charging stations along nationally designated alternative fuel corridors. In addition to the federal formula and competitive grant funding Washington will receive, we are also distributing $30 million dollars in state funding through our Zero-emission Vehicle Infrastructure Partnership grant to nonprofit organizations, tribes, state and local government agencies, all of whom then partner with private-sector organizations to develop and implement their projects.

Another example of how we're leveraging federal funds is the electrification of our ferry system. WSDOT operates the largest ferry system in the United States. It is also the biggest contributor of greenhouse gas emissions of any state agency in Washington, burning 19 million gallons of diesel fuel to transport 19 million passengers every year. Our fleet is aging and many of our vessels are due for major preservation work or replacement. This makes it the perfect time to modernize the fleet as we preserve it in a state of good repair. That's why we've embarked on an ambitious ferry electrification program to transition to an emission-free fleet that will also cost less to operate and maintain. New IIJA funding opportunities, including the Electric or Low-Emitting Ferry Pilot Program, allow us to leverage federal funds with state dollars for this important work, increasing both the impact of federal funding and our ability to reach our decarbonization and efficiency goals.

New IIJA discretionary grant programs that support large, transformative projects through multiyear grant agreements and/or funding pipelines are also appreciated. For example, WSDOT was recently notified that we will receive a $600 million National Infrastructure Project Assistance program or "MEGA" grant award for the Interstate Bridge Replacement Project. This bi-state project will replace the I–5 bridge which connects Washington and Oregon and serves as a critical connection for regional, national, and international trade. Replacing this aging bridge with a crossing that can meet the needs of all travelers for generations to come is of the highest priority. The MEGA grant program supports large, complex projects that generate national or regional economic, mobility or safety benefits—and the IBR program does all three. Funding that recognizes the long lead time and magnitude of transformational projects is key to our work and has been helpful moving several key projects forward.

Another example is the new Corridor Identification and Development program administered by the Federal Rail Administration. We received entry into these programmatic "pipelines" for both our existing Amtrak Cascades passenger service and our proposed Cascadia High-Speed Rail programs. This allows us to plan for improvements for current rail passengers as well as envisioning an even more robust system in the future with high-speed rail between major Pacific Northwest cities, enabling us to address transportation and other related quality of life issues for future generations.

As we deliver projects with funding through the IIJA, we strive to ensure the projects benefit all Washingtonians. This work also includes continuing to be more inclusive in our contracting work. WSDOT is a national model for Disadvantaged Business Enterprise participation as part of our ongoing contracting journey. For federal fiscal year 2023 our DBE participation rate is nearly 19 percent or $111 million. That's an increase from FFY 2017 with 14.6 percent in total or $77.6 million. Our work includes several programs supporting under-represented business efforts, including programs for small and veteran's businesses and capacity building mentorship programs.

In addition to efficiently deploying the federal funds we've received; we are also engaging in opportunities to comment on new rules. FHWA's Final Rule for Assessing the Performance of the National Highway System, Greenhouse Gas Emissions (GHG) Measure is one example. WSDOT recently co-signed a letter with 14 other states, representing over 40 percent of our nation's population and almost 50 percent of our GDP, noting our support for the measure. Transportation is the largest source of carbon pollution in the United States. As stewards of that system, state DOTs can take meaningful actions to cut greenhouse gas emissions. While state DOTs play a critical role in the transition to a clean energy economy, they cannot do it alone. This common-sense rule will provide important and uniform data to help state DOTs, partners, and stakeholders work together to make progress towards a cleaner, safer, and more equitable transportation system. Since 2018, WSDOT has voluntarily reported GHG emission estimates and targets on the National Highway System to FHWA as part of bi-annual performance reporting. The process it neither difficult nor burdensome and we stand ready to support our partners who are new to the process.

Challenges

For years, infrastructure investment did not keep pace with our needs. The impacts of a lack of adequate investment to preserve and enhance our systems for all users are readily apparent and will take time and hard work to overcome. There is also the cost—both monetarily and in human suffering—that we all pay as a society when it comes to transportation funding and issues such as safety.

The combined budgets of all state DOTs is nearly $200 billion a year. Yet crashes cost our national economy $1.4 trillion annually in economic and societal impacts. Not having our system in a state of good repair costs another $142 billion a year. Congestion's annual cost is $110 billion; with another $107 billion for greenhouse gas emissions. Currently, WSDOT has less than half of the funding needed to keep our systems safe and in a state of good repair.

Like DOTs across the country, we are experiencing cost escalation for some projects. The COVID pandemic placed an unprecedented strain on the supply chain resulting in increased material costs. Material pricing volatility adds risks to projects. This is especially challenging for our largest, most complex projects because we are asking contractors to estimate these costs years into the future. Consequently, it's on these types of projects that we are seeing the largest cost increases. While we are generally not experiencing the same supply chain issues we did during and immediately following the pandemic, other external pressures are still affecting project costs. These include market conditions exacerbated by strong, unprecedented competition among agencies for the same material and workforce pool.

Workforce availability is a challenge for entire transportation sector as we work together to deliver new projects and programs funded by IIJA and state and local governments. This involves all phases of project work and quite simply: the current near-term demand outweighs the supply. Many agencies and industry partners also are experiencing employee loss due to retirement and attrition, exacerbating the hiring challenges. Those challenges also affect schedule, ultimately affecting overall project costs. DOTs, labor, and contractors are ramping up to deliver the projects funded through IIJA but a massive increase in projects also requires a workforce increase, and we hope Congress will provide a robust and sustained level of funding as our federal partner so that everyone, especially our private sector partners, will invest to ramp up, keep up, and deliver on these vital projects.

We also need to do more to encourage women, people of color and other underrepresented groups to study and work in transportation engineering and the construction trades to help build the strong, diverse workforce our programs and projects require. We've done that in Washington state with several state-funded internship and Pre-Apprenticeship Support Services programs, including training and support for women, people of color, socially and economically disadvantaged individuals (including in juvenile justice or foster care systems) to learn the skills to become iron workers, maritime crews or other trades. In the last 10 years we've served about 3,000 people through these programs, but we need to see those numbers at 10,000 a year or more.

Reducing Federal Highway Funding Volatility by Addressing Record-High Levels of August Redistribution

Under the current process of providing highway formula and discretionary grant dollars for the federal fiscal year, the Federal Highway Administration (FHWA) has to wait until August to ask state DOTs to obligate a significant share—$7.9 billion or 15 percent of the $54 billion total in FY 2023—in just one month. This "wait-and hurry up" approach deprives state DOTs of the full fiscal year to strategically plan and deploy investments to best deliver on the promise of the IIJA.

In the past, Washington has been successful in utilizing its full amount of our Obligation Authority and therefore has been eligible to receive redistributed funds. We've strategically overprogrammed preservation projects to take advantage of August Redistribution opportunities. In 2023, Washington state received a total of $116 million in redistributed obligation authority, with approximately $72 million for local agency projects. But our success means we have very little contract authority remaining, which will decrease our capacity to continue to utilize these redistributed funds.

AASHTO has been collaborating with the US Department of Transportation on a possible legislative solution to maximize highway formula dollars provided to state DOTs and are sharing these for Congress' consideration. Legislative modernization of the August redistribution process in Section 120 of the annual Transportation-Housing and Urban Development appropriations is needed to mitigate the impact of slow-spending non-formula Highway Trust Fund programs and to ensure ample time for state DOTs to obligate additional dollars throughout the fiscal year. This action will more quickly translate IIJA's historic investments to tangible benefits throughout the country.

Mr. ROUZER. Thank you very much, sir.

Mr. Tucker, Mr. Jeff Tucker, CEO of the Tucker Company Worldwide, you are now recognized for up to 5 minutes.

TESTIMONY OF JEFFREY G. TUCKER, CHIEF EXECUTIVE OFFICER, TUCKER COMPANY WORLDWIDE, INC., ON BEHALF OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION

Mr. TUCKER. Chairman Rouzer, Ranking Member Larsen, and members of the House T&I Committee, thank you for the opportunity to speak with you today to highlight the vital role that logistics companies play in the supply chain and how our industry combines with an effective infrastructure to directly benefit the American economy.

My name is Jeff Tucker. I am the third-generation CEO of Tucker Company Worldwide, based in Haddonfield, New Jersey, and former board chair of the Transportation Intermediaries Association. I have 33 years of experience in this industry, and chair and cochair committees and other national and international logistics associations.

Tucker is the oldest privately held freight brokerage in the United States. We arrange some of the largest shipments that humans can move on the road, and we also move pharmaceuticals and other high-value goods. We have supported numerous Presidential, military, and both the RNC and DNC national conventions with logistics support.

I am honored to represent TIA's more than 2,000 member firms. TIA is the professional organization of the $232 billion third-party logistics industry, and it is an association that my father, Bill, cofounded in 1978.

Logistics companies like mine view infrastructure as the chessboard: the chessboard upon which we use every single mode of transport to literally make the world go round. We are innovators, we are huge investors in technology, we are mode agnostic, and, like you, we are focused on ensuring goods reach consumers quickly, safely, and efficiently. The work logistics companies do has taken on new importance in America since the pandemic upended global supply chains. Freight supported rapidly shifting supply chains, unlike anything in history, from mid-2022 to mid-2023.

We seem to have reached a new equilibrium, as the other gentlemen have mentioned. The pandemic era, a disruption in freight, has dissipated, and the broader economy is proving resilient. We believe these factors combined will create greater stability in 2024. Our industry overcame the historic challenges to keep America's supply chain fluid.

I commend the administration and this committee for the proactive approaches to addressing supply chain concerns, notably through the FLOW initiative and the creation of the Supply Chain Disruptions Task Force. Thank you for the Bipartisan Infrastructure Law, too. Continued and robust investment in infrastructure, combined with resourceful and innovative logistics companies like mine, are part of America's superpowers and directly improve our economy, jobs, and the health and welfare of our people.

Our number-one challenge is fraud. Fraud is rampant in trucking. It has ballooned to an $800 million problem. There is a surge of malicious actors engaging in illegal activity, registering with FMCSA as carriers and perpetrating fraud, theft, and holding freight hostage in situations without any legal consequences. While this is obviously an economic problem hurting consumers and businesses alike, it also raises safety and security concerns. Unfortunately, FMCSA is failing to enforce the law, investigating tens of thousands of fraud complaints lodged with it.

We see similar cases of fraud with dispatch services, which are often based abroad, operating here in our country, who, mind you, are not required by FMCSA to obtain a license or a registration like my company has, doing essentially the same work.

We need FMCSA to step up. FMCSA must stop dabbling in nonsafety commercial considerations like what dollar amount a performance bond should be, or what commercial terms included inside a private contract between two parties exist. Instead, focus on safety.

Other issues impacting the industry, for example, there is a rising need for longer term investment at the Mexican border to meet the increased truck and rail traffic crossing that border as supply chains shift closer to home.

State regulatory issues, which may be well intentioned, often dealing with sustainability and air quality, are causing more challenges in the Nation's supply chains by creating more than one standard for interstate commerce.

Finally, there is no driver shortage. I say that again. There is no driver shortage, nor has there been one. That is a false narrative that may lead to unintended consolidation in the industry and a weakening of the American supply chain. A more than doubling of the number of carriers and an increase of 1 million drivers has occurred over the last 10 years.

We must have a more nuanced conversation about this and other policies, and I am thankful to be here, and look forward to further discussion.

[Mr. Tucker's prepared statement follows:]

Prepared Statement of Jeffrey G. Tucker, Chief Executive Officer, Tucker Company Worldwide, Inc., on behalf of the Transportation Intermediaries Association

Chairman Graves, Ranking Member Larsen, and members of the House Transportation & Infrastructure Committee: Thank you for the opportunity to speak with you today to highlight the vital role that logistics companies play in the supply chain and how the logistics industry combined with an effective infrastructure directly impacts the overall American economy.

My name is Jeff Tucker; I am CEO of Tucker Company Worldwide based in Haddonfield, New Jersey, and a former Board Chair of the Transportation Intermediaries Association (TIA). I chair and co-chair committees in other national and international logistics organizations, which give me a variety of perspectives. Tucker Company Worldwide is the oldest privately-held freight brokerage in North America, specializing in project cargo like oversized and overweight shipments—including some of the largest structures humans can move on the ground—to extremely expensive and high security items like pharmaceuticals, vaccines, and life-science goods. We provide U.S. military logistics support and have supported countless Presidential missions, DNC and RNC national conventions security logistics support. In the aftermath of 9/11, our company provided trucking services at Ground Zero; we supported FEMA during countless disasters; and moved radioactive containment structures during the Three-Mile Island partial meltdown. We operated during excessive regulation, and we helped lead the industry through Presidents Carter's and Reagan's and multiple Congress' bipartisan efforts to deregulate price controls and contracting controls that stifled the industry. In those earliest days of deregulation, my father Bill Tucker was a founding member of TIA, which celebrated their 45th year as an association in 2023. Along with my brother Jim, we are third-generation owners of the company that my grandfather founded.

I am honored to be here today to represent TIA's more than 2,000 member companies. TIA is the professional organization of the $232 billion third-party logistics industry, representing approximately 1 in 4 freight dollars spent. With over 33 years of experience in the field of logistics and supply chain management, I am pleased to share insights into the intricate relationship between logistics, infrastructure, and the overall efficiency of the supply chain. Make no mistake—investment in American infrastructure, combined with incredibly resilient and innovative logistics providers combine to supercharge America's economy, its jobs and the health and welfare of Americans. We make the world go 'round.

The word 'logistics' encompasses transportation, warehousing, distribution, and inventory management and is the foundation of every supply chain. When done well, it involves the seamless coordination and integration of many transactions to ensure the timely and cost-effective movement of goods from the point of origin to the end consumer.

Logistics companies specializing in transportation are freight forwarders and freight brokers. I am here primarily representing freight brokers, who focus on surface transportation within North America. Freight brokers stand at the center of the supply chain: we routinely solve the most difficult challenges; we facilitate and arrange the efficient and economical movement of goods by working with tens of thousands of shippers and carriers to help arrange the movement of freight by truck, rail, air, and ocean carriers. Increasingly, we are the parties with the most significant investment in freight and logistics technology.

Every Fortune 500 company utilizes the services of at least one freight forwarder and one broker, and often they use many brokers to handle their freight transportation allocation. Arranging the freight is only the tip of the iceberg, and the easiest work we do. We provide critical data to help companies manage their businesses more effectively; we provide technological support and innovative solutions to strategic and tactical problems, and we help manage aspects of their business relationships, identifying waste and opportunity for savings and efficiencies. By helping companies understand the supply chain, and working with them, their suppliers, and their customers to educate them on the value of time, the value of delay, the value of useful information versus bad, we help companies revolutionize and revitalize their operations. All of this is possible because we move their freight and use their own data, combined with market data and internal learnings to help them continually evolve, and compete with domestic and foreign competitors.

The work that logistics companies do has taken on new importance to America since the pandemic upset global supply chains. The pandemic, China's misguided and unsuccessful Zero-Covid policy, and the increasing geo-political tensions around Taiwan, the Taiwan Strait and the South China Sea, and the inordinate shipping delays that ensued at the peak of the freight crisis, have collectively caused many

American companies to rethink China and return to the Americas, and to the United States.

We learned of examples of healthcare manufacturers who were solely dependent upon Chinese suppliers for lifesaving products, parts of syringes, many types of personal protective equipment ("PPE") and many other critical to life products. Companies sought to mitigate these risks by finding other manufacturing locations in—closer to home and in the U.S. Logistics companies are critical to supporting this effort. We are helping companies choose locations wisely and to move new freight volumes throughout the country. These are exciting times, especially for our company, since my grandfather founded the company and supported rigging companies who were dismantling factories in the Northeast and moving them South, West or overseas. Today, 60 years later, we see America building again.

Transportation efficiency is paramount in the U.S. GDP and the global supply chain, as it directly impacts the speed and reliability of delivering products. The optimization of transportation routes, the utilization of advanced technologies such as GPS tracking and the integration of multi-modal transportation options all contribute to a more resilient and responsive supply chain. Logistics companies view infrastructure as the chess board, and we are adept at strategically helping our customers and our carriers make the best moves to help their businesses thrive.

Logistics companies are the largest investors in logistics technologies within the industry—more than shippers and carriers. We play a critical role in mitigating many risks within the supply chain. Continuous investment in solution development, technology, modeling, and piloting new methods of delivery are central to what logistics companies do today. We help organizations respond swiftly to disruptions, ensuring continuity of supply even in the face of unforeseen challenges, like when natural disasters hit, when new products launch, and of course when global supply chains are disrupted by pandemic or war or blocked canals. The supply chain bent but never broke during the pandemic, due to the incredible resilience of our transportation system, and due to the risk mitigation actions and the taken by logistics companies.

Let me repeat myself. The supply chain bent, but never broke during the pandemic. There was never a day—ever—where we were not able to locate a truck to move a shipment. It may have cost a lot more to lure a carrier away from steady business, or to send an empty truck hundreds of miles to pick up a critical shipment. But we moved it.

Today there are more than twice as many trucking companies as a decade ago. The nation added over 1 million net, additional for-hire drivers over that same time. I encourage you to think differently about there being a driver shortage. There is not a driver shortage in America. I have been reporting data on this for 13 years. However, if you are a large carrier, you have an awful driver shortage because technology allows smaller carriers to thrive and has encouraged American entrepreneurship. The largest fleets today represent the smallest market percentage in drivers and tractors than at any time since 2011. Overall, however, the industry is thriving.

Logistics companies have never been more important to the economy than they are today. Trucking fleets are becoming smaller and more nimble and more specialized, catering to the specific needs of our manufacturers and importers. Meanwhile, manufacturers are lean, efficient and they wish to deal with fewer suppliers—thus the enormous and ever-growing reliance on logistics companies to support their operations.

This growth in logistics companies and the ever-increasing decentralization of the motor carrier industry are great for America. They fuel ownership, investment, and innovation. They keep America open for business and maintain our position as the swiftest, most powerful distribution system in the world.

In the earliest days of the pandemic, when Washington State nursing homes were being ravaged, and New York City hospital morgues were overflowing with the dead, these smaller fleets volunteered to move loads to these troubled areas, while some larger carriers declined. As we sought carriers to haul medicine and other relief supplies to NYC, large corporately run carriers routinely told us they were not sending drivers to hot spots for their safety and due to Human Resources concerns. Understandable. I get it. But small carriers and drivers volunteered, placed the flags on their backs like superheroes, and helped those in need. Logistics companies, and the deep, interwoven operational relationships we have with our customers enabled these drivers to access this business and to perform this good work. And get paid. And through the worst of it—those first several weeks in April 2020 when extraordinarily little freight was moving—we kept carriers moving. None of us had the revenues that we wanted, or the orders we needed, but we kept America fed and critical supplies flowing. We notched huge psychological wins during a dark period that gave our work new meaning.

The U.S. economy has become intrinsically linked with the broader global marketplace and the worldwide supply chain can have significant impacts. As we saw during the pandemic, the role of logistics in both the United States and internationally remains pivotal to the broader American economic landscape. From the standpoint of our members, the disruptions experienced in the supply chain due to the COVID–19 pandemic are improving, yet several lingering challenges persist.

Some challenges include: (a) individual states undoing the seamless interstate commerce system by attacking small carriers and owner operators with regulations ostensibly geared toward clean air, but are overreaching and overbroad, placing the fundamental strength of our supply chain—our diverse and defragmented market—in grave jeopardy; (b) limitations in truck capacity within specific sectors such as liquid bulk and hazardous bulk shipments; (c) shortages of shipping containers; (d) inflationary pressures driving up the cost of many freight components and reducing consumption of goods, which reduces freight volumes.

I wish to commend the Administration and this Committee for the proactive approaches to addressing supply chain concerns, notably through the FLOW initiative and the creation of the Supply Chain Taskforce. The multifaceted efforts to navigate and optimize the supply chain align with the overarching goal of fostering economic resilience and stability. Logistics companies remain optimistic about continued progress and look forward to ongoing collaboration to ensure the resilience and efficiency of the U.S. supply chain.

I remain concerned about national security as it relates to the supply chain. We were overly dependent upon China before the pandemic and remain so today in certain products. Individual state regulations mentioned earlier, which if left unchecked by Congress, will slow down freight movements and harm American families. Regulations that consolidate the industry may appeal to special interests, but these efforts make it easier for our enemies to disable our trucking industry. It is far more difficult to disable a growing 350,000 carrier fleet with 3.5 million drivers, than it is to disable a consolidated one. Remember how the Colonial Pipeline and Maersk data breaches brought commerce to a halt?

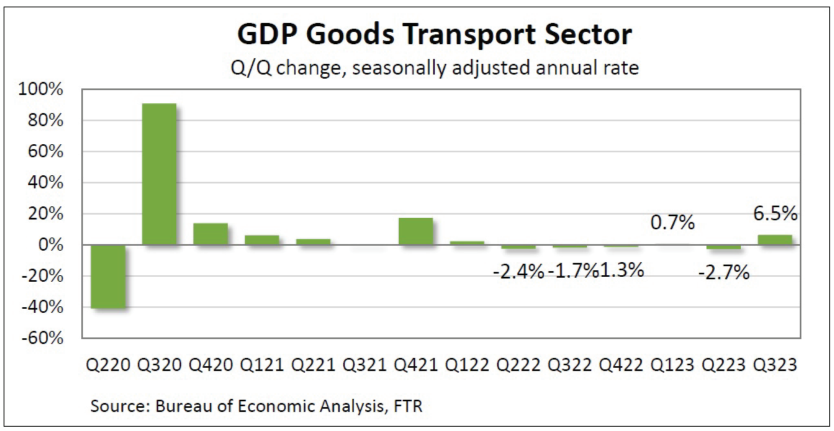
I am genuinely concerned with the Federal Motor Carrier Safety Administration (FMCSA) and their willingness to become involved in commercial aspects of the transportation system. I was selected by FMCSA Administrator Anne Ferro several years ago to serve on its Motor Carrier Selection Advisory Committee's subcommittee. Since 2010, FMCSA has promised to provide safety data to those of us interested in motor carrier safety. They have failed the public miserably. This is the one thing industry needs from them, and they are 13 years overdue and counting. Yet, instead of focusing squarely on life saving safety issues, they keep wasting years of funding and taxpayer support focusing on commercial considerations like performance bonds and what is contained in contracts regarding pricing between private parties, neither of which have any relevance to safety. FMCSA's regulatory mission is safety and reducing crashes, injuries and fatalities involving large trucks and buses. Yet they persistently avoid that responsibility every minute that they focus on commercial interests between private entities. FMCSA must be held accountable to focus exclusively on safety matters and stay out of regulating agreements between companies.

On behalf of TIA, we are particularly grateful for Congress' work to pass the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law. Infrastructure is the engine that powers sustained growth and is the bedrock of our GDP. Infrastructure, encompassing roads, bridges, airports, communication networks, and energy systems, facilitates the smooth functioning of key sectors. Adequate and well-maintained infrastructure not only enhances connectivity and accessibility but also fosters economic efficiency and creates a conducive environment for businesses to thrive, attracting investments and generating employment opportunities. Additionally, infrastructure investments contribute to improved sustainability by promoting environmentally friendly practices and technological advancements. In essence, allocating resources to infrastructure development is an investment in the future, laying the foundation for a resilient, competitive, and prosperous economy.

Supply Chain Disruptions

TIA publishes a 3PL Market Report that summarizes data collected from participating TIA Members, which gives us insights into the market and analyzes the future market. In the 3rd quarter of 2023, the U.S. economy and the portion associated with freight transportation both posted surpassingly strong results. The Real Gross Domestic Product (GDP) rose 5.2% quarter over quarter on a seasonally adjusted basis—the strongest gain since the fourth quarter of 2021. Despite this solid performance in the third quarter, freight volumes remained sluggish driven by increased consumer spending on travel, experiences, and entertainment (think Taylor Swift and Beyoncé), and inflationary pressures reducing overall spending for many.

In the mid-2020s and 2021, inflation hit trucking and freight before it hit the greater economy. Demand for trucking services and wild changes in supply chains dramatically changed lanes and carrier partners for shippers large and small. Carriers and logistics companies scurried for new customers and new lanes, and shippers scurried for new carriers, bidding up prices to steal capacity from others, since commerce lanes changed so much. Interestingly, overall freight volumes were not particularly abnormal. All of this "inflation" in freight was caused by rapidly shifting supply chains, unlike anything in history. This pricing strength attracted 15% more drivers into the market in just two years from 2020 to 2022. In mid-2022, the supply chain reached a new equilibrium, and most of that new driver capacity that appeared, has been steadily exiting the market. Today's carrier and driver counts are back to 2019 and 2020 levels. The inflationary period in trucking, air and ocean seems to be over, and its short duration provides hope that today's moderating inflation numbers may portend a short-lived consumer inflationary period.



Looking to the future, logistics companies are paying close attention to consumer spending, manufacturing, capacity and utilization, and retail and wholesale inventories. According to the recent data, the freight industry showed signs of improvement, outpacing a trend of weak performance that began in mid 2022. However, freight volumes and the possibility there may still be overcapacity in the trucking industry paint an uncertain view of 2024. If the market is in equilibrium, we feel a little more positive, as pricing is level and predictable. We watch consumer spending as a leading indicator for the freight economy. And stronger than expected jobs data provides some optimism. Mortgage rates edging down and increased home ownership trends by younger citizens are glimmers of hope for freight. Data shows that spending has kept freight demand in good standing and could continue; however, a sudden weakness in job growth, or a negative shock to the economy could undermine this upswing.

Amidst the prevailing uncertainty, the 3PL (third-party logistics) marketplace stands resilient, experiencing unprecedented strength. Shippers increasingly rely on brokers, and this reliance has witnessed substantial growth, with the broker freight marketplace expanding by over 30% from 2020 to 2022. The agility of TIA members is noteworthy, as they possess the capacity to adapt swiftly, leveraging robust carrier relationships that shippers may not inherently possess.

In navigating the dynamic landscape, shippers consistently seek transportation solutions to meet their evolving needs. Safety and security rank as the top two criteria when a shipper selects a broker. Looking ahead, projections indicate a substantial uptick in the role of brokers, with estimates suggesting that by 2045, brokers will handle nearly 45% of the freight in the supply chain—a significant increase from the current approximate share of 30%. And the number of brokers continues to grow, offering shippers and carriers more choices and a much wider range of partners and specialties, catering better to their needs.

This trend underscores the growing significance of brokers in the logistics ecosystem, positioning brokers as key facilitators in meeting the evolving demands of shippers while maintaining a steadfast commitment to safety and security.

FRAUD IN THE SUPPLY CHAIN

One developing challenge is that the supply chain is currently grappling with a pervasive fraud epidemic, costing upwards of $800 million for American consumers, with brokers, carriers, shippers on the front lines. Regrettably, the industry is witnessing a surge in malicious actors engaging in illegal activity, registering with FMCSA as carriers using numerous motor carrier numbers, and perpetrating fraud, theft, and freight hostage situations without facing legal consequences.

Unfortunately, and yet again, FMCSA is falling short in enforcing the law or investigating the tens of thousands of fraud complaints lodged with the Agency. Although the FMCSA expressed intentions to utilize funds from the Infrastructure Investments & Jobs Act (IIJA) for increased enforcement, to date, progress has been slow. We do understand the constraints and limitations that the Agency faces, and this is an issue that we all need to tackle head on together. I encourage this Committee, Congress, and the Administration to use every tool at your collective disposal to refocus and reprioritize FMCSA's attention away from commercial interference between brokers, carriers, and shippers, and concentrate all its efforts on safety and national security. Fraud in trucking affects critical freight like pharmaceuticals, food, and even military freight. These are legitimate and present threats to public safety.

Fraud not only undermines market security but also poses risks to safety on our nation's highways, inevitably leading to additional costs for end consumers. The situation's urgency prompted Congress to take issue with it, as evidenced by the inclusion of language in the fiscal year 2023 THUD Appropriations Bill, mandating the FMCSA to report back to Congress on the issue and their actions. However, the awaited report is yet to be issued. FMCSA has commercial interference on its mind instead.

Another contributing factor to supply chain fraud is the proliferation of unlicensed and unregulated "dispatch services," often based outside the United States. These services, hired by owner-operators to secure loads, including sensitive Department of Defense freight, raise concerns about national security. FMCSA has decided to exclude these services from obtaining a freight broker license, instead of recognizing the pervasive nature of this issue. Making matters worse, in some cases, foreign nationals, operating overseas for these dispatch services have direct IT connections with U.S. carriers and/or payment services here. This opens a Pandora's Box of IT risk that is incomprehensible. Collaborative efforts with the Armed Services Committees in the House and Senate occurred in 2023 and report language was included in the NDAA to investigate this issue. One proposed solution involves the implementation of a provision from the Moving Ahead for Progress in the 21st Century Act of MAP–21, requiring brokers to demonstrate industry knowledge or possess a minimum of three years' experience for authorization, mirroring a successful regulation at the Federal Maritime Commission (FMC).

From my perspective, the most significant challenge currently afflicting the market is the prevalence of fraud in the supply chain. Until there are effective measures to address and enforce solutions for this issue, the continued dysfunctionality of the supply chain and its adverse impact on the broader economy will persist.

CONCLUSION:

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

Mr. ROUZER. Thank you very much. Next we have Ms. Lauren Benford, controller for the Reiman Corporation.

You are recognized for 5 minutes.

TESTIMONY OF LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Ms. BENFORD. Thank you, Chairman Rouzer, Ranking Member Larsen, and members of the Committee on Transportation and Infrastructure. Thank you for inviting me to testify today on this vitally important topic. My name is Lauren Benford, and I am the controller of Reiman Corp., an active member of AGC, and the past president of the AGC of Wyoming.

AGC is the leading association in the construction industry, representing more than 27,000 firms, including America's leading general contractors and specialty contracting firms, many of which are small businesses. Reiman Corp. is a 76-year-old family-owned company currently passing off leadership to the third generation. We employ 150 employees and operate in Wyoming, Nebraska, and northern Colorado. We specialize in heavy highway, civil, and commercial construction.

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

For the construction industry, managing inflation defined 2023. Since February of 2020, the average cost of construction material has increased by 37 percent, nearly twice as high as consumer inflation, which was 19 percent during the same amount of time. More specifically, highway construction cost has increased 50 percent since December of 2020, according to the Federal Highway Administration. These figures also reflect a significant cost increase for specific construction materials from February 2020 to November 2023, which include a 113 increase in the price of diesel; a 60-percent increase in the price of steel mill products; a 44-percent increase in the price of gypsum, which is used in many of building materials; and a 31-percent increase in the price of cement.

The price of fuel, especially diesel, has driven up the cost for the construction industry and projects nationwide. Higher diesel costs mean construction companies must pay more to operate equipment, deliver material to jobs, and haul away debris, dirt, and equipment. Likewise, construction workers themselves feel the pain of higher commuting costs, particularly for jobs in rural areas like Wyoming, where workers often have longer commutes.

Working in Wyoming creates many challenges being a rural State, such as material availability, severe shortage of skilled laborers, extreme weather, shorter building seasons, and logistical challenges because of long distances between communities.

The construction industry labor shortage remains severe, with most construction firms expecting labor conditions to remain tight. Despite firms increasing pay and benefits, the workforce shortage continues. In 2023, an AGC survey found that 93 percent of construction firms reported they have open positions they are trying to fill. Of those firms, 90 percent are having trouble filling at least some of those positions, particularly among the craft workforce that is performing the bulk of the construction work onsite.

Nevertheless, confusion around the Buy America requirements have added to the uncertainty. While AGC supports the effort to enhance America's manufacturing capabilities, there remains confusion among suppliers, contractors, and owners themselves, including the DOTs.

It is also important that we depoliticize the Buy America waiver process. If a waiver is granted, it does not mean that administration, Democratic or Republican, does not care about domestic manufacturing or American jobs. It means that they also care about American construction jobs and want to rebuild America's infrastructure.

Looking ahead to 2024, construction companies have a mixed outlook as expectations for demand remain mostly positive, but less upbeat than last year amid these new challenges.

The Infrastructure Investment and Jobs Act provided market opportunities for all types of construction companies. From a construction standpoint, AGC members report that most of the IIJA funding to date has been needed to repair and repave our roadways. While AGC members are hard at work to rebuild the Nation's infrastructure, it is also critical to recognize that current focus on repair and reconstruction is in its early stages of the IIJA, partly due to project readiness.

We have not seen an increase in the large projects to bid. As a result of the IIJA, we remain optimistic the robust funding levels provided in the law will mean more construction projects break ground in the next few years. If Congress did not pass the IIJA, the impacts on transportation contractors would have been significant, with likely a cut of 20 to 30 percent in projects by the States.

I want to thank you all for the opportunity to testify today. I look forward to any questions.

[Ms. Benford's prepared statement follows:]

Prepared Statement of Lauren Benford, Controller, Reiman Corporation, on behalf of the Associated General Contractors of America

I. INTRODUCTION

Chairman Graves, Ranking Member Larsen, and members of the Committee on Transportation and Infrastructure, thank you for inviting me to testify on this vitally important topic. My name is Lauren Benford, and I am the Controller of the Reiman Corporation, an active member of the Associated General Contractors of America (AGC) and a past President of the Associated General Contractors of Wyoming.

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

Reiman Corp is a 76-year-old, family-owned company currently passing off leadership to the third generation. We employ 150 employees and operate in Wyoming, Nebraska and Northern Colorado. We specialize in heavy highway, civil and commercial construction work.

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

In my testimony today, I will discuss the status of the construction industry, including the challenges that lie ahead for rebuilding our nation's infrastructure. Recent investments in infrastructure, like the Infrastructure Investment and Jobs Act (IIJA), have contributed to the most significant infusion of investment in our infrastructure since the enactment of the Interstate Highway System in the mid-1950's. While inflation and supply chain constraints have created challenges over the past two years, the construction industry would have seen a cut in projects to bid on without the IIJA, negatively impacting my company, the industry, and our nation's infrastructure. My testimony today will also highlight the challenges and opportunities that exist for the construction industry.

II. The Cost of Construction Has Increased

The cost of construction materials has increased

For the construction industry, managing inflation defined 2023. Since February 2020, the average cost of construction materials has increased by 37%; nearly twice as high as the rate of consumer inflation, which was 19% during that same period (See Appendix Table 1). More specifically, highway construction costs have increased 50% since December 2020, according to the Federal Highway Administration's (FHWA) National Highway Construction Cost Index (NHCCI).[2] These figures also reflect significant cost increases for specific construction materials from February 2020 to November 2023 (See Appendix Table 2), which include a:

- 113% increase in the price of diesel;
- 60% increase in the price of steel mill products;
- 44% increase in the price of gypsum (used in a lot of building materials); and
- 31% increase in the price of cement.[3]

The price of fuel, especially diesel, has driven up costs for the construction industry and project costs nationwide. Higher diesel costs mean construction companies must pay more to operate equipment, deliver materials to jobsites, and haul away dirt, debris, and equipment. Likewise, construction workers themselves feel the pain of higher commuting costs—particularly for jobs in rural areas where workers often have long commutes.

Contractors are often asked, "what difference does it make what the costs of materials are if you are just building the price into your bids?" There is often a lag between when you are quoted a price from a supplier that is used to submit a bid and when the order is placed ahead of construction—especially when you are doing federal-aid transportation work. Get the estimates wrong and you either lose your shirt (and possibly your company), or you lose the bid.

Contractors must try to predict what prices will look like when it comes time to procure these materials, several months to even a year later—otherwise they could be forced to absorb increases. Likewise, if a contractor includes anticipated cost increases in their bids, they run the risk of losing out on a project to a lower bidder.

Companies are also unable to foresee things like world events that cause a spike in oil prices or soaring inflation and therefore, in some instances, are forced to absorb these increases if there is no price adjustment clause available to them.

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

Working in Wyoming creates many challenges being a rural state, such as material availability, severe shortage of skilled labor, extreme weather, shorter building seasons and logistical challenges because of long distances between communities. Wyoming's forever west attitude, harsh weather, and lack of amenities makes it extremely difficult to attract talent to the state to allow our companies to grow.

The wages of construction workers have increased

The Bureau of Labor Statistics released numbers in November 2023 that showed that there were still 390,000 job openings in construction despite 271,000 new hires reported throughout the month. In other words, the industry cannot find enough people to hire. This has resulted in dramatic increases in labor costs. Between December 2022 and December 2023, the average hourly earnings for "production and

[2] National Highway Construction Cost Index, https://explore.dot.gov/views/NHIInflationDashboard/NHCCI__1?%3Aiid=1&%3Aembed=y&%3AisGuestRedirectFromVizportal=y&%3Adisplay__count=n&%3AshowVizHome=n&%3Aorigin=viz__share__link

[3] Bureau of Labor Statistics, Producer Price Indexes, https://www.bls.gov/ppi/

non-supervisory employees" in construction rose 5.1%. Meanwhile the average for hourly workers in the private sector rose 4.3% (Appendix Table 3).

Construction companies face difficulty hiring and maintaining workers

The construction industry's labor shortages remain severe with most construction firms expecting labor conditions to remain tight. Despite firms increasing pay and benefits, the workforce shortage continues.

A 2023 AGC survey found 93% of construction firms report they have open positions they are trying to fill. Among those firms, 90% are having trouble filling at least some of those positions—particularly among the craft workforce that performs the bulk of onsite construction work. While finding qualified workers remains a challenge, the survey does show that contractors are optimistic, particularly with road, bridge, and transportation construction.

The industry is facing the effects of decades of policies directing students to attend four-year institutions as the only career option. For every dollar the federal government invests in career or workforce education, it spends five encouraging students to go to a traditional four-year college and pursue a "professional" career.[4] That is why AGC supports increased funding for Career and Technical Education (CTE) funding, as laid out in the Carl D. Perkins Vocational and Technical Education (Perkins) Act. Perkins is the primary federal program for developing and supporting CTE programs for secondary and post-secondary students. Exposing younger individuals to construction skills and careers is critical. However, these programs, especially construction focused ones, are expensive to operate and administer for local schools, as they involve purchasing construction equipment, simulators, and tools as well as attracting and retaining instructors. And these programs face rising inflationary pressure and lingering pandemic impacts.

My local AGC chapter created a workforce development division three years ago to combat workforce issues we have seen compound upon themselves the past few decades. The division is led by a former teacher who left the classroom at the opportunity to help students find careers outside of the college track. This division has enacted multiple initiatives to help students find a path into the skilled trades. It starts with clarifying the pathways into the trades that was identified as a key piece missing in attracting youth. They are made very aware of the requirements to enter college and plenty in the school system help students navigate the path to enroll. But this is not done for students interested in finding jobs in the trades. Secondary schools often present apprenticeship programs, on-the-job-training options, or trade schools as vague ideas. And students are not shown the specific pathway to these alternative, but equally worthwhile, options.

Our workforce division has read construction related books to students in kindergarten and 1st grade. They have built mini-toolboxes and birdhouses with students in 2nd and 3rd grades. We fund and organize CTE career exploration days for school districts that highlight the CTE options available in the local high school for 5th and 6th grade, before kids even really think about their high school schedule. We then check back in with kids in 7th and 8th grade and start talking about specific careers rather than skillsets. In the high schools, we are invited to give presentations showing how kids can take what they are learning in their CTE classes and turn those into a career.

We are involved with our community college programs that help support construction as well as have partnered to start programs not offered but that support careers desperately in need. Finally, our workforce division in our local AGC chapter has a strong relationship with the construction management and engineering programs at University of Wyoming (UW). Our members host their students as interns in the summer to provide real life work experience to support their classroom learning. A few of us from AGC of Wyoming are invited to UW to give industry insight presentations and we are represented on their advisory boards.

All of this is to highlight that to solve this workforce problem, the AGC of Wyoming has created a long game strategy that is only three years old. We are already starting to see it make a difference in recruiting high school graduates from trades programs into our industry and hope that as these partnerships continue and we continue to support our schools and CTE teachers, we can create the kind of pipeline that provides well-paying careers to Wyoming citizens and helps Wyoming contractors meet the states construction demands.

The outlook for construction in 2024 is mixed

AGC recently released the survey results from its members on the economic outlook for construction, *A Construction Market in Transition: The 2024 Construction*

[4] https://opportunityamericaonline.org/

Hiring and Business Outlook.[5] Demand for different types of projects is changing. Respondents to this year's *Outlook* survey are less confident about growth prospects for many market segments than they were a year ago. They are most optimistic about a range of public-sector market segments, including water and sewer projects, transportation, federal, and bridge and highway work. Conversely, they predict private sector demand will be less robust for segments like manufacturing and multifamily residential and will decline for lodging, retail, and private office construction.

While contractors remain mostly upbeat, their top worries for 2024 include fears about the impacts of higher interest rates on demand for construction and the risk that the economy could enter a recession. In addition to these new worries, contractors remain concerned about workforce shortages and their impact on construction prices and schedules. Contractors continue to see projects being delayed—sometimes indefinitely—because of rising costs, slower schedules, and shrinking demand for the finished products.

III. Regulatory Burdens Create Uncertainty and Further Increase Costs

Confusion surrounding new Build America, Buy America Act (BABAA) requirements

As you know, the IIJA included new Buy America requirements. This legislation significantly broadened domestic sourcing requirements for infrastructure projects receiving federal aid. While AGC supports efforts to enhance American manufacturing capabilities, it is imperative that such efforts be implemented with clarity and without imposing undue burdens on those responsible for procuring materials in the construction of our nation's infrastructure.

Unfortunately, the Office of Management and Budget's (OMB) implementation process, commencing with preliminary guidance on April 18, 2022, and culminating in the final guidance released on August 23, 2023, has been characterized by hasty implementation processes and requirements that were inadequately considering existing manufacturing capabilities, material delivery times, and the administrative changes necessary to comply with the new mandates.[6] [7]

The recent Requests for Information (RFI), issued by various agencies, including the U.S. Department of Transportation (DOT), Environmental Protection Agency (EPA), and the Department of Housing and Urban Development (HUD), exemplifies how the Administration has imposed requirements on states and contractors without a comprehensive understanding of the availability of various manufactured products essential to infrastructure construction.[8] Although BABAA requirements have been incorporated into contracts since May 14, 2022, federal agencies are still in the information gathering phase, as evidenced by activities like this RFI occurring as recently as last month.

The Administration is always quick to point to the waiver process outlined in BABAA and how it has 15 days to approve or reject waivers. However, OMB's implementation of the waiver process and historical precedent with waivers tells a different story. AGC is concerned that this system will result in project delays or incentivize the use of substandard materials.

For example, FHWA posted a waiver for comment on August 28, 2023, that was submitted by the Illinois Department of Transportation (ILDOT) for non-domestic pumps. However, the waiver was submitted by ILDOT to FHWA on May 21, 2021. How are U.S. DOT and the White house supposed to determine if there are domestic manufacturers or not if the public is not made aware of the waiver request for nearly two and a half years?

Furthermore, a memorandum released by OMB on October 25, 2023, mandates that federal agencies notify and consult with the Made in America Office before posting proposed waivers for public comment.[9] This additional requirement is poised to further extend the timeline between a project stakeholder's waiver request and the public's opportunity to comment on its necessity.

It is important that all Buy America waivers get equal treatment whether it is for an electric vehicle charger, a transit system, or a roadway project. Likewise, the

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[5] The 2024 Construction Hiring and Business Outlook, https://www.agc.org/news/2024/01/04/2024-construction-hiring-and-business-outlook

[6] M–22–11 Memorandum for Heads of Executive Departments and Agencies, https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf

[7] Guidance for Grants and Agreements https://www.federalregister.gov/d/2023-17724

[8] Request for Information Regarding Products and Categories of Products Used in Water Infrastructure Programs https://www.epa.gov/system/files/documents/2023-11/epa-hq-ow-2023-0396-0001.pdf

[9] M–24–02 Memorandum for the Heads of Executive Departments and Agencies, https://www.whitehouse.gov/wp-content/uploads/2023/10/M-24-02-Buy-America-Implementation-Guidance-Update.pdf

waiver process must be depoliticized. If a waiver is granted, it does not mean that the Trump Administration or Biden Administration does not care about domestic manufacturing or American jobs; it means that they also care about American construction jobs and want to rebuild America's infrastructure as promised under the IIJA.

Again, AGC is supportive of efforts to expand domestic manufacturing efforts and its members help build those manufacturing projects. However, we are concerned that reality of the timeline necessary to attract and build a stronger domestic manufacturing sector will come at the expense of construction jobs because of project delays caused by an opaque, politicized, and lengthy waiver process.

Greenhouse Gas Performance Measure

At the end of 2023, FHWA finalized a rule to establish a greenhouse gas performance measure. During debate of the IIJA and prior surface transportation laws, Congress considered proposals that would provide FHWA with the authority to create a performance measure on greenhouse gas emissions but ultimately rejected them. AGC believes [10] that this greenhouse gas performance measure would be a one-size-fits-all mandate that would limit a state's ability to choose transportation projects that fit its unique needs.

While FHWA keeps touting that there are no explicit penalties for states that fail to meet their targets, the rule does state that "State DOTs and MPOs that set a declining target but fail to achieve their targets can satisfy regulatory requirements by documenting the actions they will take to achieve that target in their next biennial report." It goes on to say states must "provide data-supported explanations for not achieving significant progress, and their plan to achieve said progress in the future." AGC believes that states will have to explain to FHWA how they will reduce carbon dioxide emissions—i.e., make climate-friendly project selections at the behest of road and bridge projects.

This new rule will make it challenging for a state like Wyoming to connect people to jobs, healthcare, and education. The transportation needs faced by Americans living in urban areas are not the same as those living in rural parts of the country. Requiring New York to invest in the New York City subway or build more bike lanes rather than a roadway project might work for the transportation needs of their state. In Wyoming, these climate-friendly projects are usually impractical and inefficient.

Disadvantaged Business Enterprise (DBE) Program

As you know, the DBE program was originally established by regulation in 1980.[11] It plays a pivotal role in fostering diversity and inclusion in the construction industry by ensuring that certified small businesses owned and controlled by socially and economically disadvantaged individuals can compete for federally funded highway, public transit, and airport projects. In the years since it was established, Congress included provisions in certain transportation laws, including most recently the IIJA, that created goals for a certain amount of federal funding to be expended through DBEs.

U.S. DOT is currently finalizing a new rule on the DBE Program. AGC represents DBE and non-DBE firms and has identified [12] many areas of agreement on how to improve the DBE program. For example, we are pleased that U.S. DOT is proposing to increase the personal net worth cap and exclude retirement assets from the calculation. DBE firms should be able to grow without punishing the owner of the company for planning for retirement. Likewise, we are pleased that the U.S. DOT is taking steps to streamline the interstate certification process. This will enable these small companies to focus more of their time and resources on running their construction companies and not forcing them to spend time on a duplicative paperwork process.

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

AGC believes that U.S. DOT should ensure that DBE availability and capacity in an area does not diminish, which would undermine efforts to achieve programmatic

[10] https://www.agc.org/sites/default/files/Files/Govt%20Regulations%20and%20Executive%20Orders/AGC%20-%20FHWA-2021-0004-0001%20GHG%20Emissions-AGC-8G4WL63-2.pdf

[11] U.S. DOT Disadvantaged Business Enterprise Program, https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise

[12] https://www.regulations.gov/comment/DOT-OST-2022-0051-0418

goals. That is why AGC supports aligning the DBE statutory size standard—currently capped at $28.48 million gross annual revenue—with NAICS code 237310 (Highway, Street, and Bridge Construction)[13] that sets a $45 million cap and is revised for industry trends and inflation at least every five years by the SBA.

And, rather than limiting DBEs to certain sub-sizes as specialty contractors—as NAICS codes for specialty contractors are generally capped at a $19 million gross annual revenue threshold—AGC supports maintaining just the one singular code and its accompanying threshold to avoid administrative confusion that could lead to DBEs being prematurely removed from the program. Also, DBE contractors can work as prime contractors on some transportation construction contracts and specialty contractors (i.e., subcontractors) on others. That flexibility maximizes their opportunity to bid on and win federally assisted transportation construction contracts. Such a change is not unprecedented. In fact, Congress enacted this approach in section 150 of the Federal Aviation Administration Act of 2018 for that mode's DBE program.

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

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

From Reiman Corp perspective we struggle to obtain our Highway Departments DBE goals because of the low number of DBEs who actually bid and perform work for us in the state. Many of our DBEs are only capable of performing a few projects a year. Another obstacle for many of our DBEs is that they are small businesses with limited office personnel and struggle to fill out and compile the federal paperwork for the projects.

Implementing Environmental Review and Permitting Reforms

Infrastructure funding has historically been a major roadblock for infrastructure projects to break ground. While recent investments in infrastructure have largely appeased that concern, there are other challenges that exist.

AGC believes a great way to maximize federal investment in infrastructure would be to fully implement the environmental review and permitting reforms that have been passed by congress in the IIJA and the Fiscal Responsibility Act. The complicated operations of these current laws and the intersection of their requirements can delay projects that would improve the overall safety and efficiency of the surface transportation system. By implementing these provisions, we believe the time and costs associated with delivering projects will be reduced without jeopardizing environmental protections.

The White House Council on Environmental Quality (CEQ) has implemented a few permitting efficiencies directed by Congress in the Fiscal Responsibility Act of 2023—like setting deadlines and page limits for agencies' reviews and adding a process for a federal agency to use another agency's categorical exclusion.

Unfortunately, CEQ also added new language that would undercut important modifications made in the past specifically aimed at limiting the endless analysis of unquantifiable environmental harms and benefits and, conversely, introduce "innovative approaches to NEPA" that direct National Environmental Policy Act (NEPA) reviews toward the Biden Administration priorities of climate change and environmental justice.

AGC is concerned that CEQ's changes add bureaucratic steps in an already onerous and slow process, require more time-consuming analyses, and increase litigation risk for project decisions. Additionally, the association is concerned that the changes will encourage agencies to impose requirements that go beyond CEQ regulations

[13] Small Business Administration, Table of Small Business Size Standards, https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards__Effective%20March%2017%2C%202023%20%282%29.pdf

and would slow agency decision-making and discourage the transformational investments needed across the economy.

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

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

IV. Results of Infrastructure Spending

IIJA Funds Have Been Mostly Used for Repaving and Repairs

When Congress debated and passed the IIJA, they got it right by prioritizing long term certainty and an increase in funding. This gives states and construction companies long-term certainty to plan for major projects. This contrasts with the American Recovery and Reinvestment Act of 2009 which provided a one-time infusion of funds and prioritize projects that were "shovel ready." [14] As a result, that legislation did not lead to major infrastructure projects being completed.

From a construction standpoint, our members report that most of the IIJA funding to date has been for much needed repairs and repaving of roadways. While our members are hard at work rebuilding the nation's infrastructure, it's also crucial to recognize that the current focus on repairs and reconstruction in the early stages of IIJA are partly due to the intricate nature of initiating significant new projects. Unlike repair and reconstruction efforts that can more swiftly address existing infrastructure issues, large-scale projects often necessitate an extended period in the design phase and working their way through environmental reviews and permitting processes. As evidenced by AGC's 2024 Construction Outlook Survey, transportation contractors are very optimistic that there will be a large number of construction projects breaking ground soon.[15]

While often hailed as historic, IIJA should not be viewed as a singular achievement but rather as a model for future funding. If Congress had not passed the IIJA, contractors engaged in civil construction would likely have seen a cut of 20–30% in the work they were able to bid on. The sustained commitment to long-term certainty and increased funding provided by the IIJA sets a precedent for proactive planning and execution of major projects. By making this level of investment a recurring norm, Congress can ensure a continuous pipeline of infrastructure improvements, fostering economic growth and bolstering the resilience of the nation's vital transportation systems.

Provide Flexibility to States to Meet their Transportation Needs

Secretary Buttigieg stated,[16] "No one understands a community's needs better than those who live there." AGC agrees that U.S. DOT must continue to provide state and local governments with the flexibility to address and prioritize their unique transportation needs as Congress intends. As each area of our country is diverse and unique, so are the transportation needs of each community. When standardized transportation solutions do not work in a community, too often the contractor gets blamed despite usually not being involved in project selection or the design of a project.

Historically, the federal-aid highway program has been federally funded and state administered with over 90 percent of the highway funding going to states via formula.[17] This ensures maximum flexibility for states to address their transportation needs and allows them to "flex" funding between programs when necessary. We ask

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[14] U.S. DOT American Recovery and Reinvestment Act Final Report, https://www.transportation.gov/sites/dot.gov/files/docs/American%20Recovery%20and%20Reinvestment%20Act%20Final%20Report.pdf

[15] 2024 Construction Hiring and Business Outlook https://www.agc.org/news/2024/01/04/2024-construction-hiring-and-business-outlook

[16] U.S. DOT, Biden-Harris Administration Launches New Program to Help Communities Seek Infrastructure Projects, https://content.govdelivery.com/accounts/USDOT/bulletins/330d4ed

[17] FHWA, Bipartisan Infrastructure Law, https://www.fhwa.dot.gov/bipartisan-infrastructure-law/summary.cfm

that Congress continue to prioritize formula funds and state flexibility in future surface transportation reauthorizations.

In my state of Wyoming, a total of 17% of our major roads are in poor or mediocre condition.[18] This ends up costing Wyoming motorists $151 million a year or $356 per driver in the form of repairs, accelerated vehicle depreciation, and increased fuel consumption.[19] In addition, the federal program is essentially the state program. We rely so heavily on the formula dollars that are provided in highway reauthorizations to repair our roads and bridges that we are barely able to provide the non-federal share required for use of these funds.

V. Conclusion

Construction companies have a mixed outlook for 2024 as expectations for demand remain mostly positive, but less upbeat than last year amid new challenges.

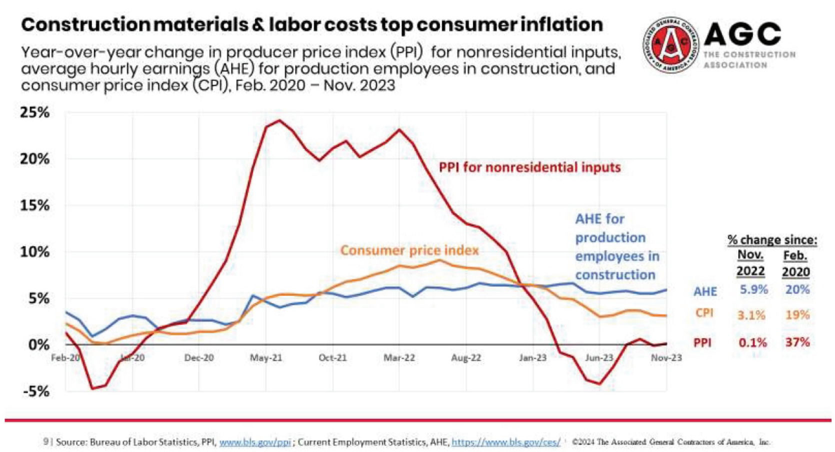
While we have not yet seen a large increase in projects to bid on as a result of the IIJA, we remain optimistic the robust funding levels provided in the law will mean more construction projects breaking ground in the next few years.

The IIJA provides market opportunities for transportation contractors, heavy contractors, building contractors and utility contractors. And most importantly, it demonstrates to our existing and future workforce that there is sustainable work in the years to come. If Congress did not pass the IIJA, the impacts on transportation contractors would have been significant with likely a cut of 20 to 30% in projects by the states.

I thank the Committee for the opportunity to testify today and appreciate its continued efforts to help improve our nation's infrastructure via enacting policies that create good paying jobs in America. I look forward to answering any questions you may have.

Appendix

Table 1



[18] TRIP, Key facts about Wyoming's surface transportation system, https://tripnet.org/wp-content/uploads/2020/04/TRIP__Fact__Sheet__WY.pdf

[19] TRIP, Key facts about Wyoming's surface transportation system, https://tripnet.org/wp-content/uploads/2020/04/TRIP__Fact__Sheet__WY.pdf

Table 2

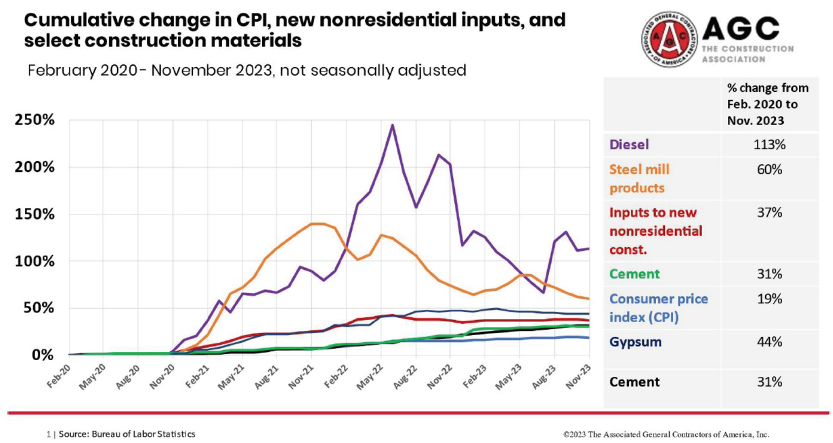
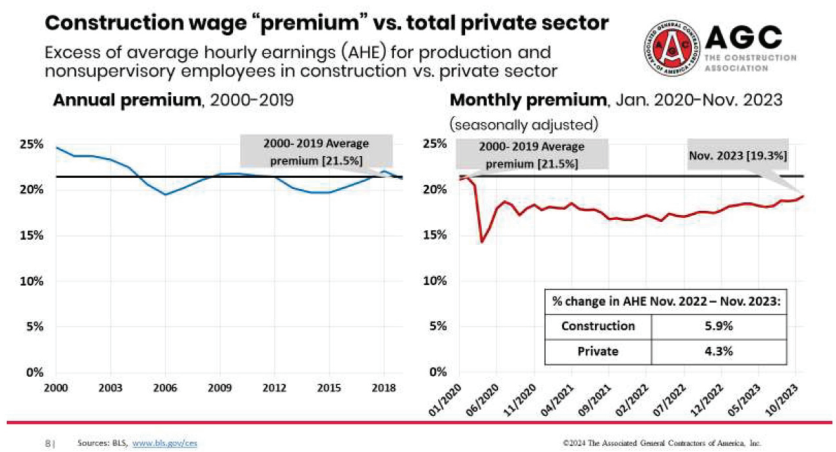


Table 3



Mr. ROUZER. Well, thank you so much, Ms. Benford, and thank you to each for your testimony.

We now turn to questions from the panel. I will recognize myself for 5 minutes for questions. And as usual, I have more questions than there is time, so, I will try to shoot through this.

For each of you, the attacks on the cargo vessels in the Red Sea and the ripple effect on the global supply chain, what impacts have you noted in your industry since the beginning of these attacks?

Mr. Edwards.

Mr. EDWARDS. Thank you, Chairman. The initial impact is the delay in vessels arriving, both in Asia and coming back to the United States, and the redeployment of ships to cover those slots elsewhere.

So, international ocean carriers are rescheduling all of their ships and coming around Africa. There is a short-term effect to that, as everybody replaces ships into the schedule. It will settle into a pattern of ships being in a longer transit. And in the case of Southeast Asia to the east coast, that will be probably 7 days in each direction of a longer transit. It is, of course, more acute for exporting into the Middle East or exporting into the Indian subcontinent. And with that scarcity of supply of assets is undoubtedly going to come some higher prices to users of those ocean carrier services.

So, I think we should also recognize that the fastest growth in trade in the last few years has been the Indian subcontinent and Southeast Asia, as people have moved to an Altasia supply base. So, it is challenging, one of the highest growth areas within our trade.

Mr. ROUZER. So, that extra 7 days, does that equate to 20 percent in extra costs, 30 percent, 10 percent? And do you have a roundabout figure?

Mr. EDWARDS. I do not. The actual time, depending on the individual circumstances, you can take the view on current fuel prices that the extra 7 days can be offset by the loss of the Suez Canal fees. That is not true for Asia-Mediterranean or Asia-North Europe.

And of course, the scarcity of assets, you would have to ask the ocean carrier on an individual basis. Some can fill those gaps, some cannot.

Mr. ROUZER. Mr. Millar, do you have any thoughts on this?

Mr. MILLAR. Mr. Chair, it is an emerging issue that has yet to impact us, but we are certainly tracking it. And our concern is cost escalation.

Mr. ROUZER. Mr. Tucker?

Mr. TUCKER. Mr. Chair, another association that I represent as a committee chair is the National Industrial Transportation League. And I spoke to the league yesterday about this, and it is a concern because of the long time it takes to move around Africa, if that is the direction you are going.

The other concern is that there are special fees that are being granted the ocean liners by the FMC. And there is just some concern among shippers that maybe those fees are not always applicable to the situation. And nothing specific that they can necessarily point to, but there is a concern there that they would love a little bit of oversight and explanation around.

Mr. ROUZER. Ms. Benford?

Ms. BENFORD. I would echo Secretary Millar's words that this is something that we will be watching. When the supply chain does have disruptions, we will usually see effects of it, but at this time, we are not.

Mr. ROUZER. So, as the committee begins to develop the next proposal to reauthorize our Nation's surface transportation programs, can each of you provide a few priorities—let's say one or two—that this committee should consider to ensure infrastructure investments contribute to the overall economic development, safety, and prosperity of the country?

Mr. Edwards, I will start back with you.

Mr. EDWARDS. Certainly, Mr. Chairman. I would ask first that you move forward on the Water Resources Development Act, in particular, for the navigation of channels. That is critical to most ports. I would say that there are—just about every coastal port has some dredging requirements going forward, and we, in particular, have some requirements within the Water Resources Development Act for some authorizations, as well. So, that would be the first one.

I think the second one that I would take is really—just to allow the Bipartisan Infrastructure Law to be acted on quickly—are areas where we need to modernize, in particular on NEPA and in particular with the Maritime Administration, where, by example, the Maritime Administration has not updated its categorical exclusion since 1985. There is a need for modernization.

Mr. ROUZER. Real quickly, Mr. Millar.

Mr. MILLAR. Safety, sir. Safety, safety, safety. The combined budgets of the 52 DOTs in the United States is about $200 billion a year. Crashes cost our economy $1.4 trillion a year, seven times the combined budgets of all the DOTs. If you are going to invest in something that would pay a return to the economy in the reauthorization, I would strongly suggest safety.

Mr. ROUZER. Mr. Tucker and Ms. Benford, I have got about 30 seconds.

Mr. TUCKER. I echo the secretary's response, except with regard to fraud. And really, this committee encouraging FMCSA to work on safety, safety, safety, and less on commercial terms.

Mr. ROUZER. Ms. Benford?

Ms. BENFORD. I would say maintain the formula funding to sustain flexibility for our States to utilize funds in the best way that they need.

Mr. ROUZER. Thank you very much.

Mr. Larsen, you are recognized.

Mr. LARSEN OF WASHINGTON. Thank you, Chair.

And sort of following on that last question from the chair, I want to start with a kind of basic question: Is it too early to start thinking about the next infrastructure bill?

Secretary Millar.

Mr. MILLAR. Mr. Larsen, I started thinking about the bill the moment the President signed the last bill.

[Laughter.]

Mr. LARSEN OF WASHINGTON. Give us time, man.

Mr. MILLAR. It is not too late to start thinking about authorization.

Mr. LARSEN OF WASHINGTON. Too early.

Mr. MILLAR. We are fortunate that the Congress, in its wisdom, has a multiyear authorization in the transportation space. But the ramping-up for a sustained level of investment requires more than 5 years. It requires—it takes generations. We are asking contractors to invest in equipment. We are asking consulting firms to staff up and buy materials and the like. Knowing that there is going to be a robust and sustained level of Federal commitment in the transportation space enables us to do our job better and more efficiently for the people we serve.

Mr. LARSEN OF WASHINGTON. We have had that issue every time we have tried to do reauthorization. I am glad we were able to do it, but perhaps, Ms. Benford, you can talk a little bit about your comment with regards to—this is not a quote, but I will just try to paraphrase—we are just now starting to be able to invest as contractors in the longer term, in the rebuild, as opposed to just the repair.

Ms. BENFORD. Right. So, currently, a lot of these projects are in design, right? So, we haven't seen a lot of them come out to bid. And so, we are really expecting that this will hit us in the next year, as contractors, to bid this work. And then it will be a 5- to 6-year process for us to complete this work.

And I think it is important. No, it is not too soon to start thinking about another bill because, as the secretary mentioned, we are working really hard to ramp up our workforce, and there is a lot of excitement in our industry right now as they see that there is a sustainable amount of work for them to complete. And so, I think it would be beneficial to let the workforce know that it is a long-term game, not just this next 5 to 10 years.

Mr. LARSEN OF WASHINGTON. Yes, I know—and this is signed—the President said this is a once-in-a-generation opportunity. I would like to think, like, this is a pretty boring, once every 5- to 6-year opportunity that we just routinely do, as opposed to every generation. So, hopefully we can get to that point.

Mr. Tucker, from a supply chain perspective, how would you characterize the BIL, and specific areas that are perhaps where the TIA is looking at?

Mr. TUCKER. Sure. I hesitate to sound like a broken record, but again, some of the issues with regard to safety——

Mr. LARSEN OF WASHINGTON [interrupting]. Repetition is not a bad thing.

Mr. TUCKER. Yes, yes, so——

Mr. LARSEN OF WASHINGTON [interrupting]. It takes us a while to absorb what you all are hearing, and hearing it over and over again is a good thing.

Mr. TUCKER. Former Administrator Anne Ferro appointed me once to a committee helping FMCSA, so, I got to really know and appreciate. And one of my good industry friends is a former Administrator of FMCSA, so, I got to know and like and appreciate the people there. But I think from time to time, what happens in Washington, they get clouded by lots of different ideas that may or may not be important or relevant to safety. So, that is that is a concern.

But specific to your question, and specific to infrastructure, I will tell you that what we are seeing is—and I don't know how many Members here have been to the border, to Laredo, the crossing. I have been there, I toured it, and it is a heck of a thing.

But I am here to tell you, too, that there is a tremendous amount of manufacturing being brought back to the Americas, in particular to Mexico, due to all of our tensions with China, all of the concerns around single point of failures with regard to critical goods that we were only buying from China. So, that crossing, all of the Mexican crossings, are going to be—that is—talk about a generational thing, that is happening right now. And we all know how much freight came from China and the Far East. A lot more of it is going to be coming through the borders. And of course, we have security concerns there, as well.

Mr. LARSEN OF WASHINGTON. Thanks. I would note by Washington you mean Washington, DC, and not the great State of Washington.

Mr. TUCKER. Not the great State, no.

Mr. LARSEN OF WASHINGTON. Where we have no problems.

Mr. TUCKER. Thank you for the clarification.

Mr. LARSEN OF WASHINGTON. Sure.

[Laughter.]

Mr. LARSEN OF WASHINGTON. Mr. Edwards, you mentioned the Water Resources Development Act, and we are going to be moving on that fairly soon here. From a broader perspective, what would you want us to know about passing WRDA 2024?

Mr. EDWARDS. I think we asked the question about what next on BIL, from a funding perspective. I believe there is about $5.2 billion for ports within the Infrastructure Investment and Jobs Act. That is more money than has ever gone into the port sector from the Federal Government. So, this is a generational opportunity for ports to make their upgrades.

I do believe that certain parts of that will have to continue over a significant amount of time, particularly as we look at energy hubs. Energy hubs are somewhat new for a number of port sectors, and it will require multiyear—we are going to have to be pretty strict at sticking to the task to make those energy hubs work.

Mr. LARSEN OF WASHINGTON. That's great. Thanks. Thanks so much.

I yield back.

Mr. ROUZER. Mr. Crawford.

Mr. CRAWFORD. Thank you, Mr. Chairman.

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 that rule, despite the fact that they didn't have the authority to do so. In fact, that was considered and rejected in IIJA negotiations.

Further, the Federal Highway Administration also rejected concerns about that issue from rural America. It seems like rural States, where the largest cities are, by comparison, small towns, you can't meaningfully reduce carbon emissions by building a subway or a bus rapid transit system to attempt to reduce commuter automobile traffic, even if it was affordable. I live in a town, the biggest town in my district. It is almost 80,000. That is a pretty small town, by most people's definition. Even though we have a Starbucks, we are still not a full-fledged metropolitan area.

So, my question is to Ms. Benford: Do you feel this new regulation will impact your ability to deliver projects?

Ms. BENFORD. Yes, I would agree with that. We do feel that the Federal Highway Administration chose to treat each State as the same.

And I will echo your words. I am from Wyoming. Emissions are a fraction of the amount of carbon dioxide emissions compared to more populated States that we produce, and so, we are concerned what that impact will be on our DOT, what projects they will have to limit to try and meet those standards.

Same for us, we don't have subways. Bike paths between our communities would be hundreds of miles. And with the weather, extreme weather that we have, just an example: from Cheyenne to Laramie, 45 miles, and you could leave Cheyenne at a 70-degree temperature, go over the pass, and it could be 30 degrees and snowing. So, a bike path in these types of communities would not be relevant.

Mr. CRAWFORD. So, I think you answered my question in your comments there, but let me ask this. Are you concerned the administration will actually use this rule as a roundabout way to influence project selection?

Ms. BENFORD. Yes.

Mr. CRAWFORD. Yes, that is my concern, as well. I want to stay with you for just a second here, Ms. Benford.

The administration is requiring project labor agreements, and we are hearing about that from contractors, the potential for slowing down the construction process and so on. Can you talk about how that may be impacting your ability to get things done?

Ms. BENFORD. So, I am aware that PLAs are being impacted. We do not do direct Federal contract work, so, it is not something that is impacting us currently.

Mr. CRAWFORD. Broadly speaking, is that an issue that affects your membership?

Ms. BENFORD. Yes.

Mr. CRAWFORD. And how so?

Ms. BENFORD. I think people are concerned about how it will affect the way that they do work and limit the way they do work.

Mr. CRAWFORD. Not long ago, Secretary Buttigieg was testifying before this committee. I made a point of asking him about the glacially slow pace of awarding grants. Earlier this month, Eno Transportation published a story highlighting that issue. It read in part, "While new appropriations and new grant selection press releases have gone up, the rate at which U.S. DOT and selectees have been able to negotiate and execute grant agreements has actually gone down."

One culprit seems to be the increased construction costs, essentially because grant application processes take so much time. A project often ends up costing more than the original projection by the time a sponsor learns that it has actually been selected for a grant. I think that is very concerning, when we consider how inflation has driven up construction costs.

In your experience, Ms. Benford, have you noticed a delay in DOT's rollout of its grant programs?

Ms. BENFORD. So, Wyoming actually doesn't get to participate in a lot of the discretionary grants because we actually struggle to match the Federal funding. Currently, our local AGC chapters are working with our State legislature to increase our funding, but— so, that is not something that we get to utilize as much as we would like.

Mr. CRAWFORD. So, in the State of Wyoming, you are kind of behind the eight ball simply because you don't have the population that can fund the match required to participate in some of those grant programs. I get that, but let me ask you this. How has inflation impacted construction costs, generally speaking?

Ms. BENFORD. I would say that it really hasn't. Right now we haven't seen the work. Again, this is a 5-year kind of rollout. So, inflation really hasn't impacted the IIJA. It has impacted the work and the cost of the work, and that is just something that you have to pay attention to, you have to be planning, you have to schedule to make sure that your materials are onsite, and roll out the project as bid.

Mr. CRAWFORD. Thank you. I yield back.

Mr. ROUZER. Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman. This is a question for Ms. Benford and Secretary Millar.

A common theme of today's testimony is the need for more workers to build and maintain the projects funded by the Infrastructure Investment and Jobs Act. I appreciate Mr. Millar's testimony regarding the growing participation of disadvantaged business enterprises in Washington State, and Ms. Benford's discussion of her efforts to teach young students about construction sector career opportunities.

Throughout my service in Congress, I have worked to increase workforce development opportunities for District of Columbia residents, including helping to establish an opportunity center at St. Elizabeths in ward 8 of the District of Columbia, and to help residents get jobs and apprenticeships at the development of Homeland Security headquarters consolidation project.

The Infrastructure Investment and Jobs Act included significant workforce policy changes, including reinstating local hire authority, allowing highway formula funds to be used for workforce development, and dedicating funds from every zero-emission bus grant for worker training.

Mr. Millar and Ms. Benford, as well, beyond what we have done in the Infrastructure Investment and Jobs Act, what else should the committee be doing to support workforce development?

Mr. MILLAR. Thank you for the question, Ms. Norton. In Washington State, we have a robust pre-apprenticeship support services program that we are funding with State revenue today. I would love to use Federal revenue in that space, but we have more flexibility with our State revenue.

We are working with community colleges. We are working with ministerial alliances. We are working with Native American Tribes. We are working with labor unions. We are working with contractors on getting people into the construction workforce.

And that pre-apprenticeship support services work we do, the one I am most proud of right now is something we did called Youth Direct, where we partnered with the Ironworkers Union. We took young men and women who were aging out of juvenile justice and foster care. When they turn 18, they would typically go out on the street. When they turned 18, these men and women came into our pre-apprenticeship support services program, and after 4 weeks, they graduated on a Friday. On Monday, they were apprentice ironworkers, and we provided them with first and last month's rent and a security deposit so they had a good-paying job and a place to live. It costs us about $2,500 per individual—$2,500 per individual—to run them through that program, which we got a little criticism for. And I like to point out to the critics that that is a lot less than it costs to be a guest of our department of corrections on an annual basis.

So, we know what we need to do. We need more and more flexible resources to do more work in that space. It is helping those individuals, and it is providing critical staffing for our contractors, for our maintenance crews at our agency, and elsewhere in the construction sector.

Ms. NORTON. Ms. Benford?

Ms. BENFORD. As a woman in this industry, the diversity topic is very dear to me. I can tell you that both the AGC and local chapters have taken on different ways to take on this challenge.

The culture of care is one that the AGC of America has taken on, which really helps us contractors determine how to create an environment in the construction industry that everyone feels accepted. And I think—keep echoing that this is something that we need to do, right, and what you can all do for us is make sure that we have the flexibility to do what is right in our State, because not one policy fits every single State and our workforce.

Ms. NORTON. Mr. Millar, we are in the early stages of a transition to zero-emission vehicles. This past summer, the national capital region's transit agency received a $104 million grant from this Infrastructure Investment and Jobs Act. Mr. Millar, what additional actions should Congress take to smooth the transition to zero-emission vehicles?

Mr. MILLAR. Ms. Norton, I think the actions you have taken in the Bipartisan Infrastructure Law, just sustaining that, is the important thing to do.

We are seeing more electric vehicle charging stations being installed. We are working with the trucking industry on electric vehicles and hydrogen fuel cell vehicles. We are creating corridors, working with our colleagues in Oregon and Washington. We have a zero-emission vehicle corridor on the Interstate 5 corridor, we are putting a heavy truck corridor in place in addition to that.

So, it is sustaining the effort over multiple acts is what is going to do it for us.

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

Mr. Webster.

Mr. WEBSTER OF FLORIDA. Thank you, Mr. Chairman, for holding this topical hearing as we head into the new year. This is great.

Currently, most of the major infrastructure funds are invested in projects not in the United States, outside the United States. The largest opportunity for infrastructure investment is in another country globally, not here. And therefore—and that is because of—there are some regulatory issues, but also the fact that we just don't have an infrastructure bank. And that is a shame. Consequently, the United States runs a risk of getting behind, if we are not already falling, and maybe falling further behind our friends and our foes in the area of infrastructure.

I, along with Congressman Allred, filed a bill called H.R. 490, which is the Federal Infrastructure Bank Act, and it would establish a Federal infrastructure bank. The funds don't have anything to do with the Federal Government, State government, or local government. It is all private money, and it is privately financed, nationally chartered, though.

It is a wholesale bank, and the funds could be used for infrastructure projects with no cost to the taxpayer. It's just an idea, it's not the solution, it's just an idea of new money. It would fund domestic projects that would otherwise not have been funded. We see it as a fantastic opportunity to do something a little different, to take a lot of the money that is spent overseas and maybe bring it back to the United States and make it a more competitive, worldwide approach.

Let's see, Ms. Benford, could your company and others like it benefit from enhanced private investment of our national infrastructure dollars?

Ms. BENFORD. Can you restate that question? Sorry.

Mr. WEBSTER OF FLORIDA. Could your company benefit from the investment of new private infrastructure dollars?

Ms. BENFORD. So, we did benefit from the Federal dollars, yes. We also do benefit from private, as we do a lot of commercial work and civil work in our community.

Mr. WEBSTER OF FLORIDA. Mr. Edwards, can you see the same thing in ports?

Mr. EDWARDS. I believe, Congressman, both in the port sector—the source of funds on how we bond our money or how we leverage our opportunities, we are always welcoming another source of money if there is a lower cost of money. So, it really will come down to the cost of money at the end of the day, because I wouldn't see it necessarily as a change of how we create our revenue stream, but more a case of how do we source money.

Mr. WEBSTER OF FLORIDA. Mr. Millar, do you have any comments about that?

Mr. MILLAR. Congressman, I do not know the specifics of your bill. Any new tools in the toolbox are welcome.

I often look at the difference between financing and funding. It's one thing to have a good financing tool, but I need funding to make that financing tool work for me.

Mr. WEBSTER OF FLORIDA. Yes, well, I guess that's the name of the game, right, is the money, where is the money.

Mr. MILLAR. Yes, sir.

Mr. WEBSTER OF FLORIDA. Yes. So, Mr. Tucker, do you have any comments?

Mr. TUCKER. Representative Webster, TIA is always looking for and open to new ideas for increasing the spending and investment. We feel—and while we are entirely grateful for the Infrastructure Investment and Jobs Act, we would love to see more, more done.

Mr. WEBSTER OF FLORIDA. Yes.

Mr. TUCKER. I don't know the specifics of your bill, like the secretary, but we are always open for new and innovative ideas.

Mr. WEBSTER OF FLORIDA. Yes. Well, the biggest difference is the infrastructure bill that we have now is our money, Federal money, State money, and so forth. This bill would be private money. No investment by any Government entity, and no responsibility to finish a project that possibly couldn't be finished. And so, it's a little bit different, but it is new money.

Well, anyway, time has run out. I yield back.

Mr. ROUZER. The gentleman yields back. Mrs. Napolitano, you are recognized.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Secretary Millar, California and Washington are very similar in dealing with impacts of cross-state rail and truck traffic on local communities.

My district specifically has some of the largest trucking and rail corridors in the country. Grade crossing projects and projects that improve commuter experience with less interaction with trucks are very important in my community.

How necessary are grade crossing safety projects and commuter projects that address the combined truck corridors?

And can you give examples of what Washington has done to improve the commuter experience in rail in the freight corridors, and how effective have the Federal grade crossing elimination and freight programs been? What can be done better?

Mr. MILLAR. Thank you for that question, Congresswoman.

Freight logistics is hugely important to Washington State. We are a trade-centric economy, with the Ports of Seattle and Tacoma and other ports, and a lot of north-south truck and rail traffic, a lot of east-west truck and rail traffic.

The grade crossing safety funding that we receive from the Federal Government is invested statewide in making our system safer. We have a great partner with our Class I's with Burlington Northern and Union Pacific. We put together a grade crossing plan for the entire State. We identified the top 50, and we are funding them and getting those crossings accommodated.

We are also working on the issue of truck parking. With the new rules, the electronic logs and the like, we have truckers pulling over to the side of the road outside of our major urban areas looking for a place to stop and take that mandatory break. We don't have enough places for them to park, and local governments are resistant to permitting additional places for truckers to park. So, we are identifying spaces in the public sector. We are talking with cities and counties and others—including our ports and our shippers—about safe places to park.

We actually had to pass a law in Washington State requiring receivers of freight to allow the truckdrivers to use the restrooms in their facilities because they were not being allowed. We are entirely dependent on trucking to move goods and services in our communities, but we are not treating the truckers with the respect that they need to become a part of that community.

We have worked with the University of Washington. We have applied a little AI and the like to a predictive truck parking model that can give a trucker the likelihood of finding a parking space 2 to 4 hours in advance, and we are expanding that work. We have a grant application in partnering with the States of Oregon and California to look at a predictive truck parking model for the I–5 corridor.

So, there is a lot going on in that space.

Mrs. NAPOLITANO. Thank you, sir. Again, in your testimony you discussed the importance of the Federal Government's support to States for a national EV charging program. Washington, Oregon, and California are working collectively on the West Coast Electric Highway program. Can you briefly discuss the program, how effective is the partnership, and how important it is to our local, State, and national transportation systems?

Mr. MILLAR. Thank you, Congresswoman. The west coast electric vehicle highway partnership has been in place for more than a decade now. It started with State investment and with NEVI. Now we have Federal money going into that program, as well. The three States have collaborated in that corridor on what our standards are, what the spacing is, how we invest public funding and leverage private funding to make that happen. It is essentially in place along the I–5 corridor from Baja, California, all the way to British Columbia, and we are looking at other routes east-west off of that corridor, routes like 99 in California and 101.

So, that work is advancing. We are working now on a heavy freight equivalent of that, looking at both battery-electric trucking, the Class 8 trucks and the hydrogen fuel cells, being able to provide fueling for them. It's emerging. But the Federal funding that has come to us has greatly enabled us to advance all of those agendas faster than we would be otherwise.

Mrs. NAPOLITANO. Thank you for your answer.

I yield back.

Mr. ROUZER. Mr. Bost.

Mr. BOST. Thank you, Chair.

Mr. Tucker, just for an explanation here, Mr. Collins and I are the two people that actually come from the industry. I was born and raised in a trucking business. I tell people I came home from the Marine Corps, I ran it for 10 years, I loved it for 8. And now my brother runs it.

But we have heard from all over about increasing freight fraud. And you mentioned that in your testimony, and basically inserted several times in your testimony. This is devastating to small businesses and owner-operators, as well. Losing out a few thousand dollars can actually put them out of business because they work on such a thin margin. Now, not only is it a huge problem for small carriers, but it also undermines trust and stability throughout the supply chain.

Now, you mentioned multiple types of fraud, but have you seen any action from FMCSA to deter or put a stop to the supply chain strain and safety risk of rising freight fraud?

And when I say that, they insert themselves into the line, and you may believe it is a decent broker that you are trying to work with, and you may be out somewhere and you are trying to get a back haul or whatever, and then all of a sudden you get the load, they get the money, and you can't find them. Do you see anything that is being done right now to try to deal with this in the industry?

Mr. TUCKER. Well, first of all, I heard your and Representative Collins' backstory, and you are living the dream.

[Laughter.]

Mr. TUCKER. So, great question. The short answer is no. But if I may clarify, please, I am a freight brokerage. I am not a carrier. The fraud I see is more—if I wanted to simplify it, oversimplify it, I would say it's carrier fraud. But it shouldn't be carrier fraud. This is really important, I think, for this committee to understand. It should never be seen as carrier fraud. It should not be seen as broker fraud. These are just criminals.

And now, I mentioned earlier in my testimony, too, that we move pharmaceuticals. These are multimillion-dollar, one-pallet-of-freight loads, right? We know that criminal activity follows these trucks because they know where the drugs are made, and they follow the trucks, and they wait for an opportunity.

So, this is the same kind of individual. It is the same. They are just criminals. And they are utilizing FMCSA to maybe sign up as a brokerage. They are signing up maybe as a carrier.

So, please, when we are thinking about this, it is really important to be thinking about it as criminals using Government agencies to masquerade as someone else. And in some cases, they don't even use the agency, they just use a false address. They could use my address, and they could pretend to be someone that they shouldn't.

One of the really important things—I go on the radio, I talk about this on Road Dog Trucking. And one of the things that I talk about any time I talk to an owner-operator is, there needs to be more education.

My grandfather started his business with two retired people in an apartment building in New Jersey, and every single person from 1961 through today, we do credit checks on. We don't rely on a, you know, there has got to be some bond, there has got to be something protecting us. We do a credit check, and we turn away business that we can't afford to take on because we can't trust. So, it is really important that you do all of your homework when you are in business, and that is the longer answer.

But FMCSA, no, they need to do way more to help us.

Mr. BOST. Yes, and the only other conversation I would like to have with you, but we don't have time here, is you say there isn't a driver shortage. If you are out there dealing with it every day, yes, there is.

And the question I—the only statement I would make towards that is—and I have made it in this committee before—it doesn't help with all the States that are legalizing marijuana, because what happens is, we have a tremendous amount of people who might be good drivers, but they would prefer to smoke dope on the weekend, and they can't get clean by Monday. It's not like having a beer on Sunday during a football game. You pop positive for 30 days, and then you are without that driver, or you just don't have that driver.

Mr. TUCKER. Yes. I have been I have been fortunate enough to be getting and keeping data on the active, for-hire motor carriers for 12 years now, and I am one of the only organizations that publishes this data on a regular basis. So, there are over 1 million more drivers driving today than there were in 2011. There are more than two times as many. There are about approximately 350,000 motor carriers in business today, 148,000 in 2011.

So, generally speaking, there are wicked driver shortages if you are a carrier of any large size. But it's because drivers follow the American dream. J.B. Hunt was a driver, and now it is one of the largest trucking organizations. So, there is a spirit of innovation in truck driving, and that is where drivers are going.

Mr. BOST. Thank you for your testimony.

I yield back.

Mr. ROUZER. Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman. Listening to the testimony and the questions, it came to my mind, oh, happy day, oh, happy day.

Here we are, we find ourselves faced with $1.2 trillion to invest in infrastructure. And so, the ports can't get it all done today. So, there are some complaints, to be sure. The States are trying to push the money out, and the contractor is faced with a significant increase in contracts available to them, so much so that the various materials necessary to build the systems become expensive, demand. Oh, happy day, $1.2 trillion.

The Water Resources Development Act is moving along. Job shortages? No. People to do the jobs? Not available. Happy day. People have an opportunity to get a job. There are programs to train people. Oh, happy day. It is in the legislation that has been passed.

You think about what has happened over the last 2 years with legislation. Yes, we have implementation problems, no doubt about it. But those implementation problems are really the result of an enormous amount of Federal investment that is available for the ports, on the dock, in the water, dredging, rail lines, crossings, States flush with money from the Federal Government to build the systems.

But yes, there are implementation problems, and contractors faced with significant demand for the goods and the services to build the systems. Happy day. Yes, but there is still problems. I want to go into one of them.

I see my colleague, Mr. Johnson, has left at a most inopportune moment. Perhaps he will return. But 2 years ago, we worked on the Ocean Shipping Reform Act. He's back.

Hello, Mr. Johnson, I am about to say good things about you and the new legislation that we have.

[Laughter.]

Mr. GARAMENDI. And Mr. Tucker, thank you so very much for bringing to our attention the issue of the implementation of the Ocean Shipping Reform Act. Again, happy day. A major piece of legislation was passed, and now we have to update it. I would appreciate if you could comment.

Well, I guess this is really to the majority party. Mr. Johnson, I know you are pushing hard to get this bill off the floor so that we can put it into the Coast Guard bill. So, let's see what we can do.

Mr. Tucker, talk to us about the implementation of the Ocean Shipping Reform Act and the next steps that are in the bill, and thank you very much for your organization endorsing the bill. This is 1836.

Mr. TUCKER. Thank you. Before I get too deep, I will quote Dirty Harry in saying a man has got to know his limitations. I am far more a trucking and surface transportation mind than ocean.

That said, I will let you know that TIA supported the Ocean Shipping Reform Act, but, Congressman Garamendi and Congressman Johnson, TIA members were hesitant about more Government regulations, but welcomed the legislation text about creating a definition of unreasonable demurrage and detention fees, and trying to reverse the trend of a few ocean carriers using retaliatory practices against manufacturers and shippers. These shipping laws have not been updated in more than 20 years.

I also echo your, oh, happy days, because I am old enough to remember the years and years and years of continuing resolution without vision. So, thank you.

Mr. GARAMENDI. Thank you, Mr. Tucker.

Mr. Edwards, our former chairman, Chairman DeFazio, after about 20, maybe almost 30 years, was finally able to take the Harbor Maintenance Trust Fund and apply it for more than just the harbor itself, but also for the port and the infrastructure associated with it.

So, I am curious about the implementation of that Harbor Maintenance Trust Fund and the changes that occurred in WRDA 2020. The new WRDA is coming up. Do you have recommendations on how we might better implement the existing laws and changes in the WRDA, the new WRDA that we would be dealing with?

Mr. EDWARDS. Thank you, Congressman. I think firstly, we were delighted when the changes came forward because we are an energy port, and therefore, we can receive harbor maintenance tax dollars for the purpose of investing in our hard infrastructure.

Noting the time, what I would comment, I would be happy to come back to you in writing, but also say at this time that the distribution of those funds perhaps is something we just need to free up a little bit so we can get that money to work, and we are ready to put it to work.

Mr. GARAMENDI. I see my time has expired. I yield back.

Mr. ROUZER. Mr. Johnson.

Mr. JOHNSON OF SOUTH DAKOTA. Thank you, Mr. Rouzer. I talk a lot about ports and ocean shipping in this committee. Sometimes my colleagues are a little confused by that. Regrettably, South Dakota does not have any oceanfront property.

But then, when you look at how globally connected we are, little old South Dakota, we export more than $5 billion of agricultural products a year. More than 60 percent of our soybeans, for example, go overseas. Manufacturing, we export more than $2 billion a year. That is, for a State of less than 1 million people, a lot. It is about $7,600 per person.

And so, Mr. Edwards, it is certainly the case that what you do, what the other ports do, the whole global shipping environment does have an impact on South Dakotans, as they do on every American. And so, I want to pick up where Mr. Garamendi left off.

A product of this committee, particularly of Mr. Garamendi and myself, was the Ocean Shipping Reform Act. The Federal Maritime Commission has a couple of very important rules, promulgation efforts underway, one on detention and demurrage, another on shipping exchanges. First, if you have any comments about those proceedings, I would be happy to hear them.

But other than that, if you have any other areas where you think some additional interest by Congress could improve ocean shipping, we are all ears.

Mr. EDWARDS. Thank you, Congressman. What I would say is soybeans, by the way, is the largest containerized export from the Port of Virginia, as well, just not South Dakotan soybeans; it is somebody else's soybeans.

What I will say on the Ocean Shipping Reform Act changes that were placed, and in particular regarding the detention and demurrage, we are an operating port, so, we are a marine terminal operator, and we believe we operate well within the guidelines that are laid out.

I did take time before I came here today to talk to some of the other trade coalitions, and I think the one item that I would ask Congress to do is hurry up the Federal Maritime Commission. I think it is over a year—I think their guidelines were due to come out in June of last year, and we are waiting now on the Federal Maritime Commission, and here we are in January. So, I think the whole industry is saying, from top to bottom, is saying the whole industry wants to abide by what the intent of the legislation was. Could the Federal Maritime Commission please publish that guideline so that the whole industry can then abide by it? I would say that is the most important one on detention and demurrage.

I believe, on the balance of trading, and in particular on exports, I am a true believer that the private sector normally reacts appropriately in the marketplace. There are times when that may not work so well, and I think because as a political subdivision, we can take our own action to protect our exporters if, by example, imports were overwhelming the supply chain, which is what happened during the pandemic in 2021 and 2022, is where imports could overwhelm the pandemic and the exporter could have been harmed.

I think it is important that ports as a whole realize that we are, yes, a for-profit business and we reinvest our profits back in, but we are also a public utility in the sense that we have to provide that service to the exporter as well as the importer. And there is, on a port-by-port basis, that need to understand the balance of protecting capacities if one leg is particularly clogging up the system.

Mr. JOHNSON OF SOUTH DAKOTA. So, in that environment, is there an area that is particularly weak or worrisome to you over the course of, say, the next 10 years?

I know a lot of ports are making a tremendous investment in additional technology to increase their capacity. I think people have a deeper understanding of their frailties coming out of the pandemic. What worries you now?

Mr. EDWARDS. I think, as we deploy technologies and we will continue to deploy technologies, we can become smarter and smarter as an industry.

I think the one thing the pandemic taught us is where do you put your surge capacity, and who is reacting to that surge capacity? And ultimately, if you are going to carry redundancy, somebody normally pays for that redundancy. I do believe that you are seeing the reaction to that on a port-by-port basis across the Nation.

And I think it is fair to say that we would be foolish if we didn't acknowledge that every port competes with every other port. We are natural competitors. So, we are businesses, and therefore, it is in our own interest to be able to provide certain surge or redundant capacity as a whole. And I think my own take on that is that in my role as a port. I am not asking the Government to intervene and tell me how to do that.

Mr. JOHNSON OF SOUTH DAKOTA. Ms. Benford, you noted your company doesn't do direct Federal work. You did mention that PLAs can be onerous and cumbersome. Is that type of Federal regulation—is that what makes you, at least in part, less likely to do direct Federal work?

Ms. BENFORD. We are just not really set up to do direct Federal work. There are a lot of restrictions and a lot of expectations that we just don't meet as a small company. And there is not—we don't do the large jobs that would be required by a PLA.

Mr. JOHNSON OF SOUTH DAKOTA. Very good.

Thank you, Mr. Chairman. I yield back.

Mr. ROUZER. Mr. Johnson of Georgia.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman, and thank you, Ranking Member, for holding this important hearing today. And thank you to the witnesses for your testimony.

Since 2020, when Joe Biden was sworn in as President, Democrats have been hard at work doing our job and fulfilling our promises by successfully enacting and implementing historic levels of infrastructure investment to jump start the Nation's economic competitiveness, protect the traveling public, and prioritize the creation of good-paying jobs. Unemployment is low and wages are high. The stock market is up, and America's economy is growing at the phenomenal rate of 4.9 percent.

While "Individual 1" was busy declaring every week to be an infrastructure week, lying to the American people of an infrastructure week that never materialized, Democrats were hard at work putting people over politics. And in 2021, House and Senate Democrats, along with a few Republicans, passed President Biden's $1.1 trillion Infrastructure Investment and Jobs Act, the $1.7 trillion American Rescue Plan, the bipartisan Ocean Shipping Reform Act of 2022, the Inflation Reduction Act, and other notable pieces of legislation. And these important pieces of legislation are responsible for the job growth, wage growth, stock market growth, and strong economic growth that the Nation enjoys today.

Tomorrow, I will be reintroducing equally important legislation, the Stronger Communities Through Better Transit Act. This bill will provide greater transit equity and quality to communities across the country, including communities in rural areas. Also, it would create a new program to provide transit agencies with Federal funding to increase and improve transit service, thereby leveling the playing field for our constituents who need transit to get to work, school, and to the doctor's office or to the pharmacy.

It is time to invest in the thousands of transit systems across the country to ensure that all Americans in cities, suburbs, and rural areas have access to frequent, high-quality, dependable transit.

Now, Ms. Benford, as you stated in your testimony, disadvantaged business enterprises, DBEs, play a pivotal role in fostering diversity and inclusion in the construction industry by ensuring that certified small businesses owned and controlled by socially and economically disadvantaged individuals can compete for federally funded highway, public transit, and airport projects. I was happy to hear that Associated General Contractors of America, which you are representing, supports aligning the DBE statutory size standard, which is currently capped at $28.4 million gross annual revenue, aligning that with the $45 million cap, which is revised for industry trends and inflation at least every 5 years by the SBA.

I recently introduced H.R. 6820, which is the Small Business Contracting Fairness Act, which would amend the IIJA to raise the statutory size standards. Can you speak more to the importance of increasing this standard, which would give DBEs greater access to Department of Transportation projects?

Ms. BENFORD. Yes. So, we do appreciate that because I think that is one constraint that our DBEs are limited by. We are required to use DBEs. And just to give you a little idea of what that looks like, when we bid a project, we have to solicit. So, we have to reach out to 80 to 100 DBEs. And in Wyoming, we get one to five quotes. And so, I think giving DBEs more access—whether it's the constraints or the administrative requirements that they are required to do—would be helpful, yes.

Mr. JOHNSON OF GEORGIA. Thank you, and I am about out of time, so, I will yield back.

Mr. ROUZER. I thank the gentleman.

Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman, and thank you all for being here today.

I represent the Big First District of Kansas. And as a geographic center of the country, Kansas offers excellent transportation advantages for certain industries. Over the last several years, there have been a number of regulatory proposals that have threatened to disrupt the Nation's supply chains, creating undue burdens on American businesses and causing mass delays in the shipment of goods.

Of course, the pandemic highlighted fractures in our supply chains. And in my view, instead of focusing on the issues, the administration continues to focus on more regulations that will cause further bottlenecks and uncertainty for the Nation's supply chains.

A handful of questions. First for you, Ms. Benford, in regards to the WOTUS, or waters of the U.S., the Biden administration continues to ignore the clear decision by the Supreme Court in the *Sackett* versus *EPA* case regarding the definition of waters of the U.S. under the Clean Water Act. What new uncertainty exists due to the administration's changes post-*Sackett*?

And did the Navigable Waters Protection Rule offer more or less clarity to you and to your members?

Ms. BENFORD. I am going to have to circle back with you on that one.

Mr. MANN. Anyone else have a comment on WOTUS, the waters of the U.S. and the impact that you are seeing that having to your particular industry?

Mr. MILLAR. In Washington State, sir, 86-plus percent of the work that we do that is federally funded is addressed through a categorical exclusion. We are spending our money on preservation of our existing infrastructure, and those rules have had no impact on that work.

Mr. MANN. OK.

Mr. MILLAR. When we do more complex projects and we get into a NEPA analysis, we go with the regulations that we have. We are working on several projects in that space, and we recognize that NEPA is a decisionmaking process, it's not a box to check.

I am all for getting to yes really quick. I am also for getting to know really quick when somebody has a bad idea.

Mr. MANN. Yes, yes, thank you.

And the next question is for you, Mr. Tucker. Last month, the Customs and Border Patrol briefly suspended rail operations through international rail crossings in Eagle Pass and El Paso. I know you referenced earlier in a question about the importance of these crossings. When the Customs and Border Patrol did that, when they had to move agents to other parts to help secure the border, Union Pacific Railroad alone noted they had more than 60 trains, or nearly 4,500 railcars, that were being held south of the border.

How do these type of delays and suspensions of cross-border activity affect supply chain and logistics throughout the country?

What are the ripple effects of that, in your view?

Mr. TUCKER. The ripple effects are significant, and especially for grains, things that have an expiration, such as food. So, those are big ripple effects.

I am not part of national security. I understand that there might have been an impetus to make Mexico do more, in doing that. But I think that the challenge needs to be faced. We need to continue moving this freight. As I said earlier, there is way more freight moving north from Mexico, and please expect it to continue over the next decade. And we just can't afford to have a closure like that. From what I understand, at least from the figures released by the Union Pacific and supported by the AAR, is that it was about a $200 million impact.

So, I think working with industry, letting industry know of potentials like this so that they can work around it if possible, would help mitigate it. But there really needs to be a better collaborative environment around stoppages such as this.

Mr. MANN. Yes, I completely agree.

Last question, quickly, for you, Ms. Benford. In your testimony, you detailed how the cost of construction had increased in the first quarter of 2023—the cost of highway construction had increased 53.8 percent over Q1 of 2020. Can you describe the impact of these increased costs on businesses like yours and your ability to complete projects?

Ms. BENFORD. Yes. So, again, going back to the bid process, when we get quotes from our subcontractors, we're really required to lock in immediately. And so, time is of the essence to make sure that the owner and everyone buys into the price. Because if we don't, that affects our risk, right? So, we take on that inflation, our subcontractors take on our inflation. And ultimately, I can tell you that there has been a lot of subcontractors who struggle with this, right? If we don't tell them, yes, you have got the job, and they don't buy materials immediately, they are affected by it.

Mr. MANN. Yes. Thank you all for being here.

Mr. Chairman, I yield back.

Mr. ROUZER. Mr. Carbajal.

Mr. CARBAJAL. Thank you, Mr. Chair.

Mr. Millar, last Congress many of my colleagues and I worked on crafting landmark legislation to invest in our infrastructure, reduce our greenhouse gas emissions, and create good-paying jobs. Through the Bipartisan Infrastructure Law, the American Rescue Plan, and the Inflation Reduction Act, we have been able to do all three.

However, I do understand that workforce availability is a challenge for the transportation sector. As we continue to oversee Federal dollars from the Bipartisan Infrastructure Law and the Inflation Reduction Act hit the ground, what are some of the considerations this committee should take into consideration and account to ensure that we maximize our Federal investments?

Mr. MILLAR. Congressman, there are a lot of things on my list there. We are working right now in Washington State to bring more women and people of color into the construction trades. When we see folks aging out of industry, it is important that we take advantage of every pool of individuals available to us. Part of that is making the workplace a welcoming place for everyone who is engaged. Part of that is providing the training. Part of that, frankly, is getting people interested in our work, and that is going to require us to get down to, like, the elementary and middle school level on just the whole issue of math, science, and technology.

There are lots of folks—I go and speak at the University of Washington to graduating civil engineers, and they are not interested in the transportation space because it's—I had a bunch of them say, "My focus is on the environment. Why should I get into transportation?" You talk to them a little bit and they figure that out, but we are not having those conversations.

It is incumbent on industry to be reaching out. It is incumbent on our educational institutions to be reaching out. We need to get young people interested in and excited about the futures that exist in this space. Knowing that you can have a job with good pay and benefits and retirement and the like in the construction trades without a 4-year college degree, people don't know that, don't get that. So, I think there is an awful lot that we need to do in the education space.

What we are able to do at the Washington State DOT, with funding from the Federal Government and from our State legislature, is directly engage with community colleges in Washington State, with church groups in Washington State, with labor unions in Washington State, with contractors in Washington State, with Native American Tribes on getting the people that they care about, getting the people that they want to see succeed into the transportation space.

So, I would encourage the Congress, as you consider reauthorization, workforce is going to be huge. There needs to be resources there, but the resources need to be flexible. We don't use Federal money in our pre-apprenticeship support services work. We are doing things like buying tools for apprentices, buying boots, and my Office of Equity and Civil Rights lead says when you use Federal money you can buy the boots, but you can't buy the laces because—you know. So, the funding is important, the flexibility is important, and just the acknowledgment of the scale of the problem.

Mr. CARBAJAL. Thank you.

Mr. Tucker, as a former chair of the Coast Guard and Maritime Transportation Subcommittee and now ranking member, I was able to work on advancing the Ocean Shipping Reform Act of 2022, written by Representatives Garamendi and Johnson. Can you discuss how the Ocean Shipping Reform Act of 2022 is helping to alleviate the supply chain crisis?

Mr. TUCKER. Congressman, thank you for the Ocean Shipping Reform Act. As I said, I am not the ideal candidate to speak to ocean issues. However, the TIA is extremely appreciative and supportive in particular for creating definition around unreasonable demurrage and detention fees, trying to reverse the trend of a few ocean carriers using retaliatory practices against manufacturers and shippers. So, thank you for your support.

Mr. CARBAJAL. You did a darn good job knowing the issue, though. Thank you.

[Laughter.]

Mr. CARBAJAL. Mr. Chair, I yield back.

Mr. ROUZER. The gentleman yields.

Mrs. Chavez-DeRemer.

Mrs. CHAVEZ-DEREMER. Thank you, Mr. Chairman. Thank you for being here today.

I am Lori Chavez-DeRemer, a new Member of Congress representing Oregon. So, Secretary Millar, it is nice to be on the border with you. I am appreciative that you mentioned the I–5 Bridge, and how important that is as we move through.

But my questions today, back in December, the Biden administration, the Council on Environmental Quality, as well as six sovereign nations released a final package of commitments in the ongoing Columbia River Systems Operations litigation and mediation. In this package, a myriad of provisions were included, and general consensus amongst Pacific Northwest communities and stakeholders in the agreement is a de facto breaching of the dams.

My Pacific Northwest colleagues, Congressman Newhouse, Congresswoman McMorris Rodgers, and myself, have been staunch supporters of the lower Snake River Dams and are deeply concerned about its future. Breaching the dams would be a fatal blow to the Pacific Northwest, as the lower Snake River Dams provide immeasurable benefits to the region and the Nation. For instance, the river system significantly decreases traffic congestion and pollution. It would take exactly 39,204 railcars and 150,784 semitrucks to move the cargo that is barged through the Snake River by rail and truck.

So, Mr. Millar, you mentioned in your testimony that the Washington State Department of Transportation works to maintain and improve local roads, railroads, and airports, which is an ongoing issue. Breaching the lower Snake River Dams would exacerbate this issue, would it not?

Mr. MILLAR. Congresswoman, Washington State—in particular, Governor Jay Inslee—has not taken a position on breaching the Snake River Dams. We are engaged with the other partners in their area on studying the potential impacts of that. We have just begun the study of the transportation impacts and our ability to respond to those impacts. So, having just begun the study, I really can't speak to what those impacts might be.

Mrs. CHAVEZ-DEREMER. By adding a substantial amount of railcars and trucks to railroads and highways, would your agency still be able to meet its objectives?

Mr. MILLAR. Yes.

Mrs. CHAVEZ-DEREMER. The lower Snake River Dams play a significant role in not only providing clean, renewable hydropower energy, which provides my constituents with low-cost electricity, but also transporting approximately 60 percent of the Nation's wheat exports. Mr. Millar, if the lower Snake River Dams were breached, how would this wheat alternatively be transported?

Mr. MILLAR. Again, no decision has been made, and the State of Washington has taken no position in that space. The options——

Mrs. CHAVEZ-DEREMER [interrupting]. If you could project——

Mr. MILLAR [continuing]. That shippers have to barging would be by rail or by truck.

Mrs. CHAVEZ-DEREMER. If an alternative plan could not imminently be implemented, don't you think this would further negatively impact supply chain issues that were already exacerbated by COVID–19?

My guess is you are going to say the study is still out there, so, no decision has been made, but I would like to keep an eye on it, and work with your office, and make sure that we are paying attention to how this happens.

Mr. MILLAR. The State of Washington is partnering with other entities that are interested and involved in that particular issue, including the State of Oregon. We welcome the continued communication.

Mrs. CHAVEZ-DEREMER. Well, I appreciate the support for the Pacific Northwest, and I am glad that you are here today.

Mr. MILLAR. Thank you.

Mrs. CHAVEZ-DEREMER. Thanks. I yield back.

Mr. ROUZER. Mr. García.

Mr. GARCÍA OF ILLINOIS. Thank you, Chairman and Ranking Member, for hosting the hearing today.

In recent years, our transportation systems have been undergoing a transformation, from the COVID–19 pandemic, which stunted many transportation sectors, to the historic IIJA funding, which renewed investments in modern infrastructure. In the Chicago area alone, we received grant funding through IIJA to make transit more accessible, improve commuter rail infrastructure, and deliver over 50 "clean" schoolbuses to Chicago public schools.

Reimagining a modern, resilient, and sustainable transportation sector will require us to examine our workforce. In 2022, I introduced the Giving Disadvantaged Business Opportunities for Success Act, which would strengthen opportunities for minority- and women-owned businesses. I am glad that DOT is finalizing a rule that would allow more businesses to qualify as DBEs.

Ms. Benford, how would increasing the DBE net worth cap and streamlining the certification process benefit the construction industry and the larger transportation industry?

Ms. BENFORD. Thank you. As I mentioned before, DBEs are a big part of our program. We are required to use them. Wyoming, we have a lot of people registered as DBEs. But again, when we go through the bid process, we only get one to five bidders. So, anything that can ease the process for a DBE would be greatly appreciated.

Mr. GARCÍA OF ILLINOIS. Thank you.

Mr. Millar, continuing on the topic of workforce, your testimony mentions challenges recruiting sufficient workforce to keep up with the demand of infrastructure projects. Has Washington State DOT identified the factors contributing to hiring challenges?

And how have you approached a solution to this workforce gap?

Mr. MILLAR. Congressman, yes, we have identified some issues.

Wages are an issue. Wages are going up in the private sector. We are not seeing the comparable increases in the public sector. They are somewhat restricted.

The availability of people. It is a competitive environment. In my organization, I have hundreds of snowplow operators. They are out there very busy as we speak. All of them have a commercial driver's license, and I am competing with the private sector. I am competing with cities and counties and port districts. I lost a whole bunch of heavy freight mechanics just a couple of years ago to the folks down at Hanford, the Federal Government participating in the cleanup. They were paying more than us. So, pay is an issue for us.

Credentialing in the marine industry. We run the largest ferry fleet in the United States, about 24 million passengers a year. And we operate 21 boats up to 3 that carry 202 vehicles and 2,500 people. The crew on those boats, to apply for a job, you have to have a transportation worker's ID card, which requires a background check, which takes time and money that people don't have when they are looking for work.

So, we do a lot in that space to provide better educations. We are, again, reaching out to high schools, maritime academies, getting young people involved and stepping up and getting that credential so that when a job becomes available, we can move them to it.

We have had to move training in-house. I used to hire people with the CDL. Now we hire people and train them on our dime. In the marine industry, to advance in Washington State Ferries, you used to have to take all of the training on your own time, and you had to pay for it yourself. We have brought that in-house as a way to bring people in.

Our pre-apprenticeship support services, we are seeing more and more women and people of color there. We require on all of our contracts a minimum of 15 percent of the labor hours that are worked to be worked by apprentices. We achieved that goal. And of those apprentice hours, 45 percent of those hours are worked by women and people of color.

Mr. GARCÍA OF ILLINOIS. I thank you for that. As you have stated in your remarks this morning, it is important that we be inclusive and especially mindful of those who have been left out of these job opportunities. What do you think Congress needs to do to ensure that recruiting is inclusive and diverse? And you have got about 5 seconds.

Mr. MILLAR. I believe the statute is in place. It can always be improved. From my perspective, it is the application of that statute by people of goodwill that makes a difference. We in Washington

State, approximately 77 percent of Washington State, they consider themselves to be White, they identify as White. So, about 23 percent of our community is people of color.

At the Washington State DOT, when I came on board, 10 percent of the workforce were people of color. We have been able to raise it in the last 3 years from 10 percent to 15 percent, and we continue to work on that. The rules, the laws are in place. It's the application of those laws over time that is going to make a difference.

Mr. GARCÍA OF ILLINOIS. Thank you.

And thank you, Mr. Chair, for your indulgence. I yield back.

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

Mr. Collins, you are recognized.

Mr. COLLINS. Thank you, Mr. Chairman.

Secretary Millar, I was out in Washington. We had that field hearing on those four dams that the Biden administration wants to tear down with a 98.5-percent success rate on moving fish up and down that ladder. And I can tell you, it doesn't take a rocket scientist to understand that when you are going to move 8 percent of the State of Washington's electric grid off of those hydroelectric dams that operate 24/7 and put them on some sort of Green New Deal, it's not going to work.

Also, you are just going to increase the price of the goods that flow up and down that river by putting them on the trucks. And I am in the trucking industry. Don't get me wrong, I love trucking, but there are not enough trucks out there. There is a trucking shortage. So, it is just more proof that the Biden administration enjoys putting more inflation on the backs of the American people without any regards to anything other than them pushing a socialistic agenda.

That being said, I want to move—my background is trucking, the trucking industry. I am a business owner. My wife and I are in the trucking business. I am actually second generation in the trucking industry. The third generation is actually running our company now, and I started out at the age of 12, very much like Mr. Tucker, I am sure. And I got my commercial driver's license at the age of 18, and I still have those commercial driver's licenses in my back pocket.

And I truly believe that the trucking industry is the most taxed and regulated industry in this country. For far too long, we have been the recipient of overreaching, overburdensome, and over-out-of-control Federal agencies.

Mr. Tucker, I heard you say that you are a generational company. And I was just curious, what generation are you?

Mr. TUCKER. I am third generation.

Mr. COLLINS. Is the fourth generation working there?

Mr. TUCKER. The fourth generation is four children between the ages of 14 and 22 and, no, no, not as of yet, no.

Mr. COLLINS. I will tell you something. The trucking industry, once it's in your blood, it's in your blood. That's why it's generational. And like you, I was worried and am worried that the next generation doesn't have the opportunities to start a trucking company like I did. It's a very proud industry. We are proud of what we do. And yes, we are an extremely important part of the supply chain.

And, Mr. Tucker, I heard you mention J.B. Hunt. I want to tell you something. Ninety-eight percent of the trucking companies out there, y'all, 98 percent, are 10 trucks or less. Ninety-five percent are five trucks or less. So, the trucking company that you referenced, that and all the others that you make and call to your head, they only make up 2 percent of the trucking industry. These are mom-and-pop generational industries.

So, right now, whether it's hours of service, minimum age requirements, barriers to entry by making us go to school, accessory equipment that's being mandated that isn't even proven that it works, parking issues like the secretary mentioned. Mr. Secretary, the reason we have parking issues is because we didn't have that 5 to 10 years ago, but your shippers and your receivers have been sued so many times that they don't want anybody on their yards. We used to park wherever we were shipping or wherever we were receiving, just to help with the hours of service so that we didn't have to drive there. But now, since there is such a sue-crazy environment out there, nobody wants to take that general liability on. So, they make us park elsewhere, which is why you see parking up and down the road.

The question is, what do we need in the trucking industry?

And you are right, Mr. Tucker. We need DOT to quit being a revenue-generating agency and be out there and be safety driven, just like the FMCSA. You are exactly right in brokerage. There are a lot of thieves out there. They are thugs. That's the best word for them. They are not trucking.

But, y'all, we need tort reform in this country. Tort reform will solve the workforce issues, the parking issues. It will solve the workers' comp issues, the health insurance issues. It will solve all of our issue problems.

Auto liability. They have done study after study after study, and it has been proven that between 75 percent to 91 percent of the time when a 4-wheeler is involved in an accident with an 18-wheeler, it's the 4-wheeler's fault, not the 18-wheeler's.

We don't need to force larger minimums on our auto liabilities in this country for trucking. The only thing that does, Mr. Chairman, is gives a pay raise to these trial lawyers out there.

And with that, I yield back.

Mr. ROUZER. The gentleman yields back.

Mr. Stanton.

Mr. STANTON. Thank you very much, Mr. Chairman, and thank you to the witnesses for speaking on this important topic today.

It has been a big year for transportation across the country as we have rolled out the Bipartisan Infrastructure Law. In my home State of Arizona, we have 609 new road and bridge project commitments using IIJA funds, $170 million was awarded through 12 grants to my State, and we received $466 million in Federal reimbursements for ongoing transportation work.

But what do those funds mean? What is the actual impact?

For the Arizona Department of Transportation, who has received more than $35 million of those discretionary funds, they have been able to begin a huge range of projects, from a wildlife crossing pilot to cut down on vehicle collisions to improve habitat connectivity, safeguarding our wildlife, to project planning for our Phoenix and

Tucson passenger rail to keep our communities connected. Our Federal work has spurred local and State investment, as well. ADOT pushed hard to complete 24 critical pavement preservation projects in 2023, repaving and restoring more than 300 miles of highway.

All of this is good news and showcasing that the State department of transportation is stronger than it was before the historic investment of the Bipartisan Infrastructure Law.

For all the progress we have made, we still have unfinished work to do. Arizona's top infrastructure priority, my top infrastructure priority is the expansion of Interstate 10. I–10 connects Arizona's two largest cities, Phoenix and Tucson, and tens of thousands of people commute along it every day. But it's more than a commuter rail. The I–10 is a key commercial artery for freight traffic to and from the ports in southern California and for international commerce with our largest trading partner, Mexico.

Despite the critical importance of I–10 in the State, for 26 miles along the Gila River Indian Community, it is only 2 lanes. Any Arizonan who has driven this stretch will tell you that is not enough. The congestion and traffic are horrible, and it is a safety hazard. A single crash can back up this highway for many miles. Even standard rush-hour traffic causes significant backups in this corridor that would be averted with a third lane in both directions.

The State of Arizona has applied for an INFRA grant under the Bipartisan Infrastructure Law. My team and I worked with ADOT to make it as competitive as possible, and it is my hope and expectation that this project will move forward very soon.

And I am glad to see the Transportation Intermediaries Association and the AGC here today, and I would like to talk to both of you about the importance of supply chains.

Mr. Tucker, a large focus of your testimony on behalf of the TIA was on the supply chains and the importance of freight as part of that equation. Can you speak about the impacts that congestion has on supply chains and the importance of investment in projects like the I–10 expansion?

Mr. TUCKER. Thank you, Congressman. I would agree with your assessment with regard to I–10, and I don't think that enough Americans understand that we have ports that go through land, right? Our land crossings, essentially. And I think that we will begin understanding that a lot more.

As I have said numerous times and in my written and oral testimony so far, Mexican freight traffic will continue and is only going to grow, and we really have to tackle that, right? So, anything that represents a bottleneck, such as what you have described—and there are others, but clearly you have got a key one there in Arizona—anything that slows that down, it increases costs to consumers, it increases costs to the retailers who pass it on to the consumers.

And especially with regard to things that may spoil, such as food—and I think we should really appreciate it, and I don't think we always do, because we are always talking here about what is needed in infrastructure—we have the greatest delivery system in the world, this country, and we just need continued investment and continued collaboration, bipartisan work in this committee. This is a wonderful committee, and I thank you guys for being on it. Thanks to all of you. But we have got work to do.

Mr. STANTON. Thank you, and I should note that Mexico is not only the number-one trading partner of Arizona, but now is the number-one trading partner of the entire United States of America.

Ms. Benford, maybe the same question. How can commercial arteries like I–10 play a role in bettering supply chain costs if we can improve I–10?

Ms. BENFORD. So, in Wyoming, we have a similar artery, I–80, that goes through our State that—I would just echo what Mr. Tucker said. It is very vital that these supply chains are dependable and that we can get what we need on time, so that we don't delay our projects.

Mr. STANTON. I appreciate those great answers, and with that I yield back.

Mr. ROUZER. Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. I have a quick one for Secretary Millar.

I guess in your position up in Washington, that makes you king of the road, huh?

[Pause.]

Mr. LAMALFA. Yes. OK, I did it, so——

Mr. MILLAR [interposing]. I have heard that before, sir.

Mr. LAMALFA. I know you have. Probably half the people in here don't know what I am talking about, anyway, so, I threw it out there.

I share I–5 with you in the northern part of my State in California, as well. And I just wanted to ask you, what is the price of that bridge you are talking about over the Columbia? Is that right?

Mr. MILLAR. That's correct, somewhere between \$6 and \$7½ billion, sir.

Mr. LAMALFA. OK, we are having a discussion on the I–5 just north of Redding there, the Pit River Bridge, as you know, sometime within 20 years might need a look. So, anyway, thank you for that.

I want to come back to Mr. Tucker here on talking about the California Air Resources Board and how individual States are causing things to not be very seamless with interstate commerce and the regulations. As you know, CARB and California are always trying to push some new envelope, in this case, 100 percent of the new trucks that would be sold have to be zero emission by 2045, and they believe that's going to be electrification so far.

So, we are just worried about that on supply chain, as well as California has huge ports in the bay area and southern California. So, so much comes from Asia straight in to those ports, and they have their own challenges with regulations, and yet so much of the demand is right there locally in a high population like California.

So, what I am driving at here is, we have CARB regulations and we have other States playing "monkey see, monkey do" on it, as well. I just saw a piece this morning where Virginia might be wanting to backtrack on their idea of electrifying all their cars by 2035 and what California is doing.

So, on top of all that, Mr. Tucker, what do you see as the prediction on large companies or all companies in responding to California regs? It used to be the attitude when I was in the State legislature, some of my colleagues on the other side would say, like, well, we are too important of a market for them to not do what we do. When does that finally drop off and they say, no, we are not going to play to that, we are going to play to the other States that want to play fair ball?

Will they continue importing and exporting out of California, or will they divert the traffic to Texas or some other port, some other method?

Mr. TUCKER. Congressman, we see these kinds of business decisions being made by motor carriers all the time in our industry. Again, we are dealing with thousands of motor carriers through 63 years.

So, for example, in some—I am from New Jersey, so, sometimes motor carriers see the Hudson River separating New Jersey and New York as the end of the continent and will not go there. And California has risen to that level of profile, where the drivers and carriers oftentimes don't want to go to California because they are afraid, right?

One of the things that I mentioned is the bipartisanship in this committee. President Carter was a Democrat. Carter started the deregulation in trucking. President Reagan, a Republican, continued that on. This committee has done tremendous work. This Congress, way back when, saw that one of the powers—again, one of the superpowers—that this country has is how do we make things faster, more effective, and safely get to the consumers?

And——

Mr. LAMALFA [interrupting]. I have to ask you to be brief, please.

Mr. TUCKER. Pardon me?

Mr. LAMALFA. Be brief, please.

Mr. TUCKER. OK.

Mr. LAMALFA. Thank you.

Mr. TUCKER. Yes. So, I think that—and the long and the short of it is, we have got to be thinking about these things. We have got to keep these front of mind. Sorry.

Mr. LAMALFA. Well, I mean, one set of regulations is becoming just a turn-off, and so, they are going to—you squeeze the balloon, and it is going to go somewhere else, you know?

Mr. TUCKER. We saw this—we see this, the Americans, we saw this as a way to deliver interstate commerce effectively. But if we have a patchwork of rules in every different State that carriers have to try to figure out how to manipulate, you are going to take it apart.

Mr. LAMALFA. Thank you.

Mr. Edwards, can you touch on that from the Virginia standpoint, please?

Mr. EDWARDS. I will be happy to touch on it from a ports perspective.

I think the most important factor we have in the movement of freight is that we plan freight on an international basis. We have to recognize that trucking is an industry that can move from State to State, just as ships can move from port to port around the globe.

What we do know at this point in time is that it would be simply impossible to have frontline operating capacity capable of meeting some of the standards that are being proposed, and that is essentially going to put costs into California.

Mr. LAMALFA. All right, thank you. The time is already up.

Thank you, Mr. Chairman, I will yield back.

Mr. ROUZER. Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. Thank you to the witnesses, especially Mr. Tucker from my home State of New Jersey.

It is good to have you. New Jersey's Eighth Congressional District, which I have the honor of representing, has received almost $11 billion in critical investments from the Infrastructure Investment and Jobs Act alone. These dollars are going towards improvements at the Bayonne drydock. They are electrifying ferries and going towards the Gateway Program, the largest infrastructure project in the entire country, something that we are incredibly proud of. And we are just getting started.

Mr. Millar, I want to talk to you because there's a series of questions that I think your experience would lend important insight to. You talked about the cost escalations and one of the component pieces of it being workforce. And in your testimony, you talked about several State-funded internships and pre-apprenticeship support service programs that Washington operates.

What has been the most successful program that you have seen increases engagement in workforce development?

Mr. MILLAR. It's a suite of programs, Congressman. The requirement to have apprentices work on our jobs, our pre-apprenticeship support services program, where we are funding community colleges, labor unions, and the like to bring people into the construction trades, we have taken that whole suite—I have had conversations with Secretary Buttigieg and the U.S. DOT about what we are doing as perhaps a model for some of the adjustments that could be made in the national space.

Mr. MENENDEZ. I appreciate that. I was on the phone this morning with a major labor organization out of New Jersey having this conversation and what we can do to encourage people. I think you said in your testimony today if that means going into grade schools and elementary schools and high schools and availing themselves of the opportunities that exist in the trades and engineering, and it is going to be an important part of our future as we continue to ensure that we lead in infrastructure here in this country.

I have a second question for you. We have seen it in New Jersey and the greater region in terms of changes in what work schedules look like, and the impact that those shifts have had on public transit agencies and the funding that they receive from daily tolls that now people have adjusted to work from home, and less consistent travel to and from work, which has impacted the revenues at a lot of public agencies. I am wondering what your experience has been in Washington in partnering with local transit agencies?

Mr. MILLAR. We have partnered with local transit agencies from the get-go. We are a major funder of our more rural, smaller agencies, and we partner with King County Metro, Sound Transit, the big ones in the Seattle area.

What we are seeing on our highways is the total volumes haven't changed, but the time of day has. What we are seeing in public transportation, what we are seeing on the Washington State Ferries is that people who can work from home, who choose to work from home are changing their travel patterns. And they are not traveling during the peak hour.

So, how do we, as service providers, adjust our schedules to meet the needs of the community as the community adjusts theirs? That is an important thing, particularly for the large transit.

For the smaller transits in Washington State, my experience is 25 percent of Washingtonians don't drive. That is almost 2 million people. And as our population ages, more and more people are hanging up their car keys for the last time. So, whether you are in rural Washington or suburban Washington, how do you maintain your independence, your dignity, your quality of life without the ability to drive a car? That's public transportation, and those are investments we are making in very, very rural places, right up to the downtown in Seattle.

Mr. MENENDEZ. Yes, absolutely, and continuing to ensure that we are leading in public transit because there is a movement to be less reliant on cars, which is something that we all want to encourage. So, I appreciate your work there.

Just a quick question on ferry electrification. We have seen it in New Jersey, where we are supporting several entities in the district that are looking to move their fleet to an electric fleet. What are some of the successes and challenges you have seen, having one of the largest ferry operations in the country?

Mr. MILLAR. The largest.

Mr. MENENDEZ. The largest.

Mr. MILLAR. But yes, it has been a challenge and an opportunity. We are currently converting one of our largest boats to a diesel-electric hybrid. There has been a lot of people concerned about the cost of that. That boat is 30 years old. We launched it 30 years ago. We are trying to get 60 years out of it. It's in for an overhaul right now, the overhaul that was scheduled day one, when we launched it.

But rather than replacing all four of the diesel motors, we are replacing two and we are putting batteries in. That comes at an increased cost. But over the life of that boat, we are going to save $60 million: the people of Washington's.

So, telling this story has been difficult. Getting power to the dock has been difficult. With our partners and with Federal support, we are making that happen.

Mr. MENENDEZ. Well, no monopoly on a good idea. So, I look forward to partnering with you.

And I yield back. Thank you so much.

Mr. ROUZER. Mr. Stauber.

Mr. STAUBER. Thank you very much. I appreciate the comments by our witnesses today. Many of you have praised IIJA, but what I think you really are praising is the idea of IIJA.

We all want good infrastructure. We know that infrastructure projects mean good union jobs and economic prosperity for our communities. The idea was dangled in front of the American people by the Biden administration as a prize to be won, knowing full well the bill needed a lot of work.

For instance, rural roads definition in the IIJA is 200,000 or less. That means in the entire State of Minnesota, which is rural, only Minneapolis and St. Paul wouldn't qualify for rural roads grants. To me, that is unconscionable.

See, without meaningful change in the spending habits of this country, inflation continues to soar higher and higher, eating away every last dollar that was promised to our communities. Without domestically sourced critical minerals and metals, our infrastructure projects are endlessly delayed as they remain at the whim of adversarial nations who control the supply chain. Without Buy American provisions, which this administration is actively trying to remove from the legislation, we rely on the biggest polluters and human rights abusers over American workers. Without meaningful permitting reform, many of the infrastructure projects fail to even get shovels in the ground.

I am very disappointed that my Republican colleagues and I were not allowed to give input in the IIJA. Maybe we could have helped make it a better piece of legislation.

Mr. Millar, you had mentioned EVs. Do you recall how much the IIJA has invested in EV charging stations?

Mr. MILLAR. In our State, Congressman, $76 million in formula funds.

Mr. STAUBER. Overall?

Mr. MILLAR. I don't remember.

Mr. STAUBER. $7.4 billion. It has been over 2 years since the legislation has been acted. Do you know how many EV charging stations have been placed around this country with that investment, that money?

Mr. MILLAR. I know the first ones were placed in Ohio. I know in Washington State we have yet to use Federal money to place some chargers, but we have——

Mr. STAUBER [interrupting]. You are exactly right. One in London, Ohio. One, $7.4 billion. One in London, Ohio. And the same administration is trying to remove the Buy American provisions for EV chargers. You know why? Because they don't want to domestically mine. They would rather enter into agreements with the Congo, where 15 of the 19 industrial mines are controlled by the Communist country of China, who use child slave labor.

The district that I represent, northeast Minnesota, has the biggest copper nickel find in the world. Union labor. And this administration just pulled the leases for purely political reasons. They want to remove Buy American provisions so that they can get these minerals for the EV charging stations on the backs of children. No environmental standards. Zero labor standards.

Mr. Tucker, can you share the vulnerabilities you have seen with our supply chain, particularly in our overreliance on China?

Mr. TUCKER. Congressman, what was the last part of that?

Mr. STAUBER. Can you share vulnerabilities you have seen with our supply chain, particularly in our overreliance on China?

Mr. TUCKER. Yes, thank you for that question. I think it is a great question, and I have long been concerned about not necessarily losing a war without a shot being fired, but we realized during the pandemic and in the months and years the pandemic was playing itself out that there were critical supply chain items.

I have got healthcare customers who made parts of syringes overseas only, right? Critical lifesaving devices. So, I think it's really important, right, that we have got the flow initiative. I think that's very important. I think the Supply Chain Disruptions Task Force is very important. And I think this committee's oversight and this committee's involvement is really important.

Mr. STAUBER. And I think, Mr. Tucker, you are exactly right. I mean, we have learned a lot through COVID, right? We can't rely on adversarial nations for our necessities, and one of them is critical minerals.

The Assistant Secretary of the Department of Energy and Defense both said if China stops selling us our critical minerals, it would be dangerous to this country. And yet we have an administration that is trying to remove the Buy American provisions in the IIJA so they can get to their charging stations. They are putting my union friends and neighbors out of work in northeastern Minnesota. We have been mining there for 145 years, cleanest water in our entire State. It is frustrating.

And I yield back.

Mr. ROUZER. Mr. Williams.

Mr. WILLIAMS OF NEW YORK. Thank you, Mr. Chairman. My concern today is that America cannot face another supply chain shock like we have seen over the last 3-plus years. It has damaged our economy, it has damaged workers, and we have invested a heck of a lot of money through the IIJA, the CHIPS and Science Act, there are provisions in the NDAA, all of these things that we have done to shore up our supply chain and the infrastructure that supports it.

The supply chain shocks were caused by a number of things: the COVID policies of the lockdowns and shutting down businesses, and identifying which were critical businesses and which weren't, and how that flowed through our economy. There was a shift in demand. Suddenly we needed unusual amounts of PPE. We had people working from home, a huge demand for yoga pants. Not for me personally, but there was a big shift in demand caused by COVID.

And then we had really irresponsible levels of stimulus by the Biden administration that shifted consumer habits and consumption patterns in ways that created an artificial scarcity through all of that stimulus.

And there are things that we can't anticipate, like the *Ever Given* ship that blocked the Suez Canal for several months and causing this cascade. We are seeing an echo of that with the Houthis and the Red Sea, changing supply lines, forcing ships to take longer routes.

It's not just ships taking longer routes. All of those ships are carrying inventory. And if the route is longer, that means more inventory is needed and is at sea. And it has an effect when it arrives in port, and when perhaps they all arrive at the same time and we end up with the enormous backlogs like we saw off of Long Beach, for example.

My hope is in a very brief conversation with you that we can try to just get a pulse of how things are going.

The thing that I am excited about is reshoring of some of our manufacturing, certainly shortening the supply chains. The CHIPS

Act is critical in how that flows through, particularly for chip production in the United States and in my district for Micron.

But if I may ask, particularly Mr. Tucker, if I can start with you, are you seeing a shift, in a way, from just-in-time manufacturing and maybe some of the inventories that companies are carrying? Is there a shift in the trucking industry of what is being moved, and where, that you think is perhaps encouraging about the state of the supply chain? Can you give an insight from your perspective of the trucking industry?

Mr. TUCKER. Yes, sir. I think that during the worst of COVID, during the worst, excuse me, of the pandemic, I think companies were stocking a little extra inventory.

But the Holy Grail in retail is to throughput and not to have an inventory. It is costs, and it adds cost to our—so, I think that what I see today is along the lines of what has been already said in other testimony, that the global supply chain, including our supply chain, has normalized or—there is no such thing as normal anymore, but it reached equilibrium, and one that is far more predictable, at least—excepting global issues like the Houthis in the Red Sea.

Mr. WILLIAMS OF NEW YORK. Well, there are shocks that we can't anticipate. I think that's part of what we are trying to avoid and what a lot of this investment has gone to.

Mr. Edwards, can I actually focus the same question to you? Are you seeing changes in what's passing through your port in terms of where it's coming from, how long it takes to clear, and what the throughput is? Are there encouraging signs there?

Mr. EDWARDS. Congressman, very encouraging signs. The fluidity of all ports is much better than it was in the days of the pandemic.

So, the dwell time of cargo is considerably lower, which tells you that the supply chain beyond the ports is all working well. And I do believe that a number of ports, ourselves included, are making large investments to allow for surges, shocks, et cetera. So, I think the best operating ports are running exceptionally well.

There is undoubtedly some sourcing away from China. You can see that, and the fastest growth, for example, would be—India or Vietnam would be significant growth engines in international trade that may have been sourced from China before——

Mr. WILLIAMS OF NEW YORK [interrupting]. It's a shift away from China.

Mr. EDWARDS. Yes.

Mr. WILLIAMS OF NEW YORK. I think that's critical. I just have a few seconds. In fact, my time is expired. So, thank you very much.

Mr. ROUZER. I thank the gentleman.

Mr. Auchincloss.

Mr. AUCHINCLOSS. Thank you, Chairman. I want to build off something that Ms. Benford talked about at the beginning of this hearing regarding flexibility for States.

I would take that a step further and say that, in fact, we need an entire overhaul of how we do transportation funding. We have got to free our infrastructure from the grip of big oil and car-centric planning by handing highway funding and administration entirely over to the States, and redirecting the Federal gas tax to support more bottom-up initiatives.

The Highway Trust Fund is running such a massive deficit that the gas tax couldn't meet its needs even if it were five times higher. And what is doled out is allocated without reference to the metrics that matter most, like how well projects connect people to jobs, services, and one another. The driving metric is simply more vehicle-miles. And to the detriment of State budgets, the Federal transportation system incentivizes States to build road after road without regard to future costs of maintenance, operation, and environmental impact.

The solution to this is not tweaks to the gas tax or tweaks to transportation funding. It's devolution. Congress should leave highway taxation and spending entirely to the States, and commensurately remove Federal redtape and regulations on highways beyond a minimum standard of safety, so that States and cities can use their dollars to address local mobility with organic solutions. Federal gas tax should remain, but be used instead to subsidize locally sponsored projects that promote walkability, micromobility, and transit. This is going to have three beneficial impacts.

First, it will give States and cities more latitude that will encourage local innovation and help us find better transportation solutions.

Second, it will compel an honest accounting of the cost of car-centric infrastructure. I heard this during this testimony, as well, from Secretary Millar about the safety impacts. I would hazard that we can spend as much money as we want, we can match the full $1.4 trillion that accidents cost us in funding the departments of transportation. But if we continue to build car-centric infrastructure, we are going to continue to get car accidents. And more tragically to the point, we are going to continue to kill pedestrians, which the United States is doing at an alarming and increasing rate.

And finally, a transparent account of the cost of maintenance of highways will make it more likely that States implement strategies like congestion pricing and improved alternative mobility options like cycling lanes, rail, and on-demand transit. This transition will be disruptive to politicians and bureaucrats, but the net effect will be a lower carbon footprint, better mobility, and more walkable downtowns.

And Chairman, I would like to introduce to the record—submit to the record, rather, the op-ed I wrote to this effect for Strong Towns.

Mr. ROUZER. Without objection, so ordered.

[The information follows:]

Op-ed entitled, "Don't Pause the Gas Tax, Redirect It," by Congressman Jake Auchincloss, Strong Towns, July 25, 2022, Submitted for the Record by Hon. Jake Auchincloss

DON'T PAUSE THE GAS TAX, REDIRECT IT

by Congressman Jake Auchincloss

Strong Towns, July 25, 2022

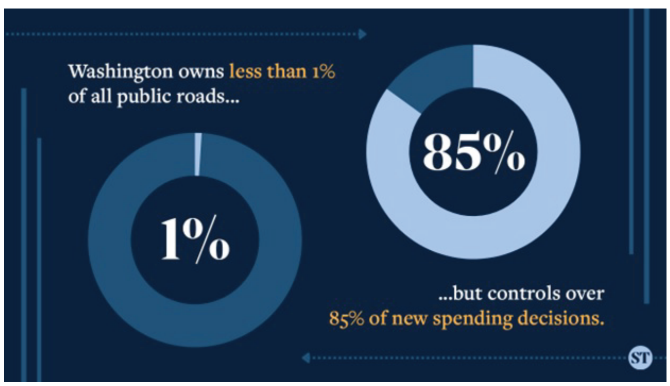
https://www.strongtowns.org/journal/2022/7/25/dont-pause-the-gas-tax-redirect-it

Congressman Jake Auchincloss—The president recently advocated for a gas tax holiday, which would save drivers only a few dollars over a few months. It also does not address the core problem. We don't need a gas tax holiday. We need a gas tax reset: *an overhaul of transportation funding*. We must free our infrastructure from the grip of big oil and car-centric planning by handing highways over to the states and redirecting the federal gas tax to support bottom-up Strong Towns initiatives.

The Highway Trust Fund is running such a massive deficit that the gas tax couldn't meet its needs even if it were five times higher—and what is doled out is allocated without reference to the metrics that matter most, like how well projects connect people to jobs, services, and one another. The driving metric is, simply, more vehicle miles (pun intended). To the detriment of state budgets, the federal transportation system incentivizes states to build road after road without regard to future costs of maintenance, operation, and environmental impact. This model of car-centric planning is exactly why, when energy prices spike, even the president has few good options to lower costs for Americans.

The solution is devolution. Congress should leave highway taxation and spending to the states. We should commensurately remove federal red tape and regulations on highways, beyond a minimum standard of safety, so that states and cities can use their dollars to address local mobility with organic solutions. The federal gas tax should remain but be used, instead, to subsidize locally sponsored projects that promote walkability, micromobility, and transit.

The benefits of reforming federal highway funding and changing the way we spend the federal gas tax would be swift and tangible. First, giving states and cities more latitude will encourage local innovation, helping us find better transportation solutions and root out failed practices. Second, it will compel honest accounting of the cost of car-centric infrastructure. Right now, federal gas tax revenue incentivizes states to build and build without thinking about the compounded costs of maintaining an ever-expanding roadway, which are paid for by our children in the form of federal debt. Eliminating that revenue stream eliminates that unsustainable incentive. Third, a transparent account of the costs of maintenance will make it more likely that states implement strategies like congestion pricing and improved alternative mobility options, like cycling lanes, rail, and on-demand transit. The transition will be disruptive to politicians and bureaucrats, but the net effect will be a lower carbon footprint, better mobility, and more walkable downtowns.



Both parties will be reluctant to reform a system that has been in place for 70 years and funds critical infrastructure. The federal government, though, is not abandoning the Interstate Highway System; it is transitioning to the tried-and-tested model of federalism, which has mediated infrastructure governance since the time of Alexander Hamilton. Indeed, the original highway law envisioned that transition happening by the 1970s. Robust federal involvement was necessary at the inception and construction of a grand enterprise. Now, though, the highways are the laggard, not the vanguard, of mobility innovation; federal involvement has gone from catalyzing a new endeavor, in the 1950s, to micromanagement and mission creep in the 21st century. Washington owns less than 1% of all public roads, but has spending jurisdiction over 85% of vehicle miles of travel. Centralized control is suffocating the next generation of mobility innovation.

The world has changed since the 1950s. The postwar experiment of car-centric infrastructure is not working. It has exacerbated climate change. It has hamstrung our budgets. It has hollowed out our downtowns. We need a new Eisenhower project dedicated to a simple proposition: *An American should not need to own a car to thrive in this century. That requires handing the highways over to the states, and* *redirecting the federal gas tax to infrastructure for walking, cycling, transit, and other Strong Towns initiatives.*

Mr. AUCHINCLOSS. Thank you.

Mr. Millar, if you were free, as secretary of transportation, from Federal regulations and the Federal funding umbilical cord for highways, and instead, you had to maintain your own highways with State-generated funds, and to think about transportation from first principles in your State, how might things change?

Mr. MILLAR. Mr. Congressman, that is a great question. Prior to COVID, Federal funding was 15 percent of the budget of the Washington State DOT. It is currently about 30 percent of our budget, but it is a fraction, a very important and very, very, welcome and appreciated fraction.

But what I—there are two things I don't do as secretary of transportation in Washington State. I don't appropriate the money, and I don't set policy. That is done by our State legislature. Our State legislature in the 2023–2025 biennium has invested $406 million in public transportation, invested $150 million in active transportation, invested substantially in decarbonizing our fleet. We are working with transit agencies across the State on decarbonization.

If there is one thing I could do—and I have asked the legislature to consider this as they move forward—we have about 1,100 miles of highway, State highway, in Washington State that go through population centers, not the limited-access freeways, but—you mentioned Strong Towns, the "stroads," the roads——

Mr. AUCHINCLOSS [interrupting]. You are a Strong Towns reader.

Mr. MILLAR. I am familiar with Strong Towns, yes.

Mr. AUCHINCLOSS. That is terrific.

Mr. MILLAR. We have recommended a safety program, a competitive grant program specifically for State highways that go through population centers because we are trying to move people through those spaces while providing access to those spaces at the same time. And the need for pedestrian and bicycle and automobile safety investment is huge because the fatality rates on those highways are twice the State average.

Mr. AUCHINCLOSS. Yes.

Mr. MILLAR. The serious injury rates on those highways are three times the State's average.

Mr. AUCHINCLOSS. Yes. Unfortunately, it is going to persist for so long as the Federal Government continues to incentivize car-centric highway infrastructure, as opposed to empowering States to connect people to jobs and services through the multitude of modalities: walking, cycling, micromobility. We need to let the States run their transportation systems and not be subsidizing automobiles.

I yield back.

Mr. ROUZER. Ms. Maloy.

Ms. MALOY. First of all, thank you all for being here. This has been a long hearing. I had to leave and come back, and you have been here the whole time, so, I appreciate your stamina.

Ms. Benford, I want to build on something you talked about. When you were talking about how the States need flexibility and every State is not the same, you mentioned Wyoming and the long distances people have to travel along stretches of highway. I represent Utah, and we have similar problems. And in some parts of my district, similar weather.

So, I am just going to put in a shameless plug here. I have a bipartisan, bicameral bill called the MORE DOT Grants Act that would help address some of the problems you talked about with States being unable to meet the matching requirements for some of these grants, particularly in rural areas and rural areas with a lot of public land, where they don't have the tax base to come up with the matching, but they have the same need to maintain roads. So, for your associates who are struggling with this in rural areas, have them look into the bill and talk to their representatives.

But I agree that States need flexibility. Not all States are the same. One of the things that I think applies to everybody—and I want to hear from everyone on the panel about this—that you talked about, Ms. Benford, is CEQ and the slow permitting reform. Permitting reform is one of the things I love to talk about. I think there are a lot of things we could do that would not be environmentally harmful at all that would save the taxpayers a lot of time and money and process.

So, I just want to go down the panel, starting at this end and work to the other end. What permitting reforms would be helpful to you that wouldn't harm any of our environmental protections, but would make things move faster so that we are keeping up with inflation and the costs of building these projects?

Ms. BENFORD. Thank you for that question. I would agree that the CEQ did have good—they implemented a few permitting efficiencies, and I think that that is important that we take those to heart, like setting deadlines, page limits, and making sure that we actually answer the questions in a timely manner so that the projects can proceed.

Again, I talk a lot about collaboration, and that is a big piece of it, making sure that all of our partners are collaborating and meeting their deadlines so that we can continue forward with our work.

Ms. MALOY. Thank you.

Mr. Tucker?

Mr. TUCKER. Congresswoman, if I may, can I pass my baton here to the secretary first?

Ms. BENFORD. Sure.

Mr. MILLAR. Thank you, Congresswoman. I think what we need first and foremost is adequate funding of Federal resource agencies so that they are staffed appropriately to respond to the regulations that they are charged with.

What I find quite often is it's not the regulation that's slowing us down, it is that there is nobody there to review the data and get the report done and get the work taken care of. So, yes, I think the rules are the rules, but what slows me down is when I don't—we actually, as a DOT, we provide our funding to resource agencies so that they can staff and do the work they need to do for us. If they were funded and staffed appropriately, I think you would see things move a lot faster.

Ms. MALOY. I have seen the same problem in projects that I have worked on, and I appreciate the answer. I would submit that if the permitting regulations weren't so onerous, we wouldn't require as much staffing time, and so we could solve that problem on both ends. Thank you.

Mr. EDWARDS. Thank you, Congresswoman. I think on the maritime space, as I mentioned earlier, not so much directly permitting, but improving the NEPA process. Not to avoid the NEPA process in any State, but to modernize it, and in particular with the Maritime Administration, to modernize—which hasn't, to my understanding, on certain exclusions, happened since 1985.

Ms. MALOY. OK, thank you.

I yield back.

Mr. ROUZER. The gentlelady yields back.

Ms. Scholten.

Ms. SCHOLTEN. Thank you, Mr. Chair. Thank you so much to each of our witnesses for being here today and for your important testimony.

Well, my colleagues are rightfully concerned about the cost and the impacts of inflation on infrastructure spending. I believe it gives us all the more reason to utilize IIJA and IRA dollars that have been set aside, which—the funding here provides once-in-a-generation infrastructure investments. This past year alone, my district has been awarded grant funding for airport infrastructure, pipeline safety, and railroad improvements, just to name a few.

Mr. Millar, you mentioned that workforce availability is a huge challenge. We know it all too well in my district across several industries. Across the country, we are facing incredible challenges recruiting and maintaining a qualified workforce. That's why I introduced the Honoring Vocational Education Act, a bill that would include vocational education under the category of post-secondary education in the United States census.

You mentioned that Washington State has several State-funded internships and pre-apprenticeship programs. Does the State utilize grant funds for those programs, and do you think those programs have scalability to the Federal level?

Mr. MILLAR. Thank you for the question, Congresswoman. I am hoping that "once-in-a-generation" turns to "first for this generation," and that we see a continuing level of robust funding support from the Federal Government.

The work that we do with State funding—when we look at the Federal money that comes into our State, we apply it as efficiently and as effectively as we can, and we find the most efficient and effective place to spend that money is on preservation work. So, we tend to put the Federal money into the preservation work, and then we use State funding for the other things that we do because, quite often, bringing Federal funding into some of those more complex activities, there are too many strings attached to it, it becomes awkward for us.

We do have a robust pre-apprenticeship support services program, on-the-job training program, a welcoming workplace program. We are working with the AGC. We have a capacity-building mentorship program, where we are bringing disadvantaged businesses into the transportation space.

All of those programs we have discussed with our Federal partners, and we are in conversations right now with U.S. DOT on how do you make those projects and programs that can be done efficiently and effectively in the Federal space, because some of my partners around the country—again, I was president of AASHTO until November of last year—a lot of my partners don't have the advantages that I have in Washington State in terms of their robust State funding. And so, Federal funding is quite often the only resource that is available to them.

Ms. SCHOLTEN. Thank you so much. My next question is for anyone.

As we continue to face the very real prospect of another continuing resolution here in Congress, one thing—certainly budget talks divide us on opposite sides of the aisle. But one thing that unites us around this is, I think, that we can all agree a continuing resolution is no way to appropriate long term.

Can you talk about the impacts of failing to pass full appropriations on State budgets?

Mr. MILLAR. It impacts us when continuing resolutions—it is not the full funding, and it provides this uncertainty. It is very difficult to plan and program when you have uncertainty in the mix. So, fund it, I guess, would be—the nice thing about the transportation space is through the IIJA, you have made the big policy call. So, it just needs to be funded, from our perspective.

Mr. EDWARDS. Congresswoman, from my perspective, what I would say is on the actual appropriation of dollars—because we are largely working with the U.S. Army Corps of Engineers, once they are funded, they are funded. So, they are not subject to restriction of a continuing resolution.

Living in Hampton Roads, I am very conscious that I live with a large military set of neighbors and a large Coast Guard, and they clearly can have their own services impacted, as can the CBP. And in particular, making sure that all of—if those services are not working, ports and gateways will be restricted.

Ms. SCHOLTEN. Exactly. Thank you.

I yield back.

Mr. ROUZER. Mr. D'Esposito.

Mr. D'ESPOSITO. Thank you, Mr. Chairman.

Mr. Tucker, since the Biden border crisis began, it has been true that every State is now a border State, every town a border town, every city a border city. However, it seems that this is becoming more true every day, and that every American, including my constituents thousands of miles from the southern border, are truly feeling the effects of our open, porous borders.

Recently, the CBP briefly suspended rail operations through international rail crossings in Eagle Pass and El Paso, Texas, which led to delays in the movement of goods. The Union Pacific Railroad noted that more than 60 trains, or nearly 4,500 cars, were being held south of our border.

If I could just ask, how does this delay and suspension affect the supply chain overall?

Mr. TUCKER. Congressman, this stoppage was unannounced. It was fairly a surprise to industry, right?

At the same time, photos and videos show a true humanitarian crisis happening with deaths of children and others falling from these trains, right? So, really, I am just glad that I am not in charge at the moment, but those who are in charge need to work more closely with industry. Those in charge need to collaborate with industry so that we in industry have the opportunity to circumvent an event like that, or prevent an event like that, or find other ways to achieve the same outcome.

Mr. D'ESPOSITO. Well, I think lack of communication and surprises are a highlight of this administration.

So, in addition to addressing the supply chain overall, how do decisions, bad decisions like these and lack of communication, how does that affect logistics industries throughout this country and companies like your own?

Mr. TUCKER. Well, I think that our industry is used to disruptions. So, it's just another day, unfortunately. However, that's not a good answer. That's not a good answer for our customers or consumers or the American citizens.

So, again, I just underscore the importance of collaborating with industry. We are here to help. I think we have got really open minds and the ability to do just about anything, I think, as we have proven through the pandemic. So, communication, clarity, and collaboration are so important.

Mr. D'ESPOSITO. Now, we have seen the negative effects of the border crisis throughout this country, whether it is increased crime, whether it is the inability of sanctuary cities to make sure that they can provide to be that sanctuary, whether it is—what we have seen—an influx of migrants into communities that don't have the ability to care for them. What other effects is the border crisis—have you seen negatively impact the supply chain or businesses like yours?

Mr. TUCKER. Consistent with the theme of a lot of my written and oral communication or testimony, the border is increasingly becoming, from a freight standpoint, the border is increasingly becoming a bottleneck, right, to the flow of goods.

The good news is we won't have to wait a couple of weeks for a lot of our products to come from China. We can ship them up by train. We can ship them up by truck, or we can create them in our own country, which is also happening, right, which is wonderful to see.

So, I think making sure that we invest in those thoroughfares and that they keep moving is important.

Mr. D'ESPOSITO. And I know that you mentioned in your testimony—we briefly touched on fraud, and you mentioned that these were bad people. And you said that fraud is a growing problem in the supply chain costing nearly $1 billion for American consumers.

You also mentioned how the Federal Motor Carrier Safety Administration has fallen short on enforcing laws or investigation complaints, often leading to malicious actors not facing consequences. What are the most common types of fraud that you are seeing in your industry?

Mr. TUCKER. We see bad actors, just flat-out criminals masquerading as a trucking company, accepting loads as a trucking company, pretending with the same address, same area code—because you can buy them for cheap—and making it look almost like you are the motor carrier. We see that. We see bad actors pretending to be brokers, offering loads. We see part of two different freight crime organizations, and we see lots of criminal organizations surveilling shippers with valuable goods and trying to steal the trailers and/or tractors.

Mr. D'ESPOSITO. I think this is another example in our country where those need to be held accountable that are violating the trust of the people. So, hold the faith, keep the faith.

And I yield back.

Mr. ROUZER. Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman.

Secretary, I wanted to ask you a couple of questions. And being from the East Bay of the San Francisco Bay area, very directed at your earlier comments about Highway 5 and putting the infrastructure on renewables and matching it up to alternative fuel fleets, both heavy-duty and cars and trucks.

So, you mentioned we work on the spine, Highway 5, up and down the west coast. But then for people like me to get to the Port of Oakland or to get to the urban areas, getting through restricted geography, which is not dissimilar, to some degree, from Puget Sound, not just Highway 9, but how you envision connecting Highway 5 to the urban areas, particularly, well, Seattle, Portland, San Francisco Bay area, and Los Angeles, San Diego.

Mr. MILLAR. In the context of alternative——

Mr. DESAULNIER [interposing]. Alternative fuels.

Mr. MILLAR. Yes.

Mr. DESAULNIER. So, that new generation of energy. How do we make sure it's connected, including with the public sector?

One of my admonitions in this committee to the Secretary and others is: Let's put it where the market is.

Mr. MILLAR. Yes, we are working on charging stations along the I–5 corridor, along the I–90 corridor—I am sure down in California, you are on the I–80 corridor, as well—for light trucks and passenger vehicles and building that system out as we go, working with the metropolitan planning organization on a regional plan for the central Puget Sound.

In the freight space, we are working with industry and with our partners in Oregon and California. We have the privilege of—PACCAR is headquartered in Washington State, and I have had the opportunity to drive their new fuel cell trucks and the like. The technology is there.

We have a cost problem right now. So, one of the things we are doing is, we are working on where can we intercede and make those trucks more affordable for drayage companies and the like.

And the other is putting the fueling in place. We are blessed with abundant hydropower in Washington State, which gives us a great opportunity to produce hydrogen at low cost at the dams.

So, all of that work is going on, and we are again collaborating with Oregon and Washington. We have the west coast electric vehicle highway in place. We have the west coast heavy vehicle highway in place. With the IIJA, we are getting Federal dollars into the vehicle charging and into research and the like. So, a lot of progress in that space. These things take time, though.

Mr. DESAULNIER. And secondarily, the workforce that does this, our renewable portfolio standard in California when I was in the legislature, the IBEW benefited from that greatly. Not all unions or nonunion people did, just because of the nature of that.

The nature of deepwater ports on the west coast and the Pacific rim and energy. I have four fossil fuel refineries in my district. Transitioning that workforce with the same map that we look at financing for transportation and regulatory efforts for air quality, and the $380 billion in the Inflation Reduction Act, the Davis-Bacon provisions in the infrastructure bill. Just looking at—between your labor department and your transportation people and your resource people, California—we struggle with this because we are a big State—is getting everybody to coordinate because there are plenty of jobs, as I look at it, when we transition the workforce, and it is not just the IBEW.

Could you speak to efforts that you are doing, either in Washington State or in collaboration with your partners, to make sure that the workforce—there is a clear transition that is healthy for the economy, not shutting off fossil fuels, but that transition and that partnership.

Mr. MILLAR. Transitions are important, Congressman. If there is anything I have learned over the last 45 years is if you don't do things with people, they assume you are doing it to them, and you kind of deserve what you get.

So, when we are looking at these transitions—like, I was the board chair of the Intelligent Transportation Society of America for a while, and we were talking about mobility on demand, and automated vehicles, and the rest. I said, "You need to have labor at the table when those conversations are going on." As we decarbonized our fleet, like our Washington State Ferries fleet, going to a hybrid electric ferry means we are going to need more electrical skills, maybe less diesel mechanic skills. Diesel mechanics are concerned. Bring them to the table, have those conversations together. There are plenty of opportunities if we work as a team.

Mr. DESAULNIER. Well, and you talk to a steelworker or UA member or a boilermaker, it is even more of a transition, and they are concerned, as they should be, but their jobs are still valuable in doing the transition right.

Mr. MILLAR. Sure.

Mr. DESAULNIER. You have got a lot of experience at it, so, the modeling you have done is valuable to us. And the degree that you can inform us on how we can make that more effective, that would be appreciated.

I yield back.

Mr. ROUZER. Mr. Owens.

Mr. OWENS. Thank you, Mr. Chair and Ranking Member. First of all, thank you for your insight. It has been very informative so far and, obviously, we have a lot of work to do.

The Biden administration has failed to address, let alone acknowledge, the crisis at our border, our southern border, as has been spoken today and talked about. It has led to shutdowns of essential rail crossings, threatening billions in cross-border rail traffic commerce that fuels our economy.

As President Biden continues the record spending of our taxpayer dollars on woke policies, our critical infrastructure remains compromised. We see bike lanes being prioritized over building and shoring up our bridges. We see chargers for EVs that only a minority of Americans can use, prioritized over a robust, consistent electric grid that every American needs. We see the Biden administration's Department of Transportation clearly picking favorites by allocating funding for deep blue intercity rail projects, while at the heart of our Nation, our rural communities are increasingly falling behind.

Across my district, small businesses and corporations depend on a state-of-the-art infrastructure that supports the easy, convenient, and consistent movement of goods, services, and people. This ensures successful businesses and the growth of a robust, successful middle class. Instead, the Biden administration is giving us a crushing woke regulatory agenda.

This is for everyone, and I am going to start with Mr. Edwards.

Each year, 32,000 CBP officers provide trade enforcement at 328 ports of entry, processing more than 24 million containers by sea, truck, and rail. In Utah, we are innovating to execute a bold vision of an inland port authority. As this committee and the transportation industry looks at modernizing the way we trade, how do inland ports fit the objective to improve trade, minimize the supply chain bottlenecks, and hold China accountable?

Mr. Edwards, would you start off?

Mr. EDWARDS. To be clear, Congressman, your question was: How do inland ports assist in the process?

Mr. OWENS. Yes.

Mr. EDWARDS. So, at the Port of Virginia, we operate two inland ports, one in Richmond and one in Front Royal in northern Washington. And we are looking at a third in southwest Virginia. The way it helps with supply chain is the speed with which we move the goods through the seaport. So, we are taking them away from the largest nodal point. The cargo is moving through the largest nodal point as fast as we can, and then it can move in-bond, and that allows for CBP to do their work at a further inland location.

That still requires that cargo to go through screening because it is coming into the United States at first port of entry, so, it will be screened at the first location from a safety perspective. But it is—the fluidity that it provides into the supply chain is where the benefit is.

Mr. OWENS. OK, thank you.

Mr. Millar?

Mr. MILLAR. Yes. On the intermodal ports issue, there are a lot of small, inland ports in Washington State that very much want to be that facility. But we have to understand the market for that, and how that works in terms of moving freight nationally.

Mr. OWENS. And is——

Mr. MILLAR [interrupting]. And that moving freight nationally may mean that the appropriate place for an intermodal port isn't in Washington State, it's in Utah, it's in Wyoming, it is somewhere else. And so, having those conversations at a regional or corridor scale is important.

We are working right now as a part of the AASHTO team. There is an Interstate 80 corridor that is looking from the west coast to the east coast, what do we do as a team to make that corridor smarter and more efficient?

We have the same thing on the I–90 corridor on the northern side, and then I–10, as well. It's more than the——

Mr. OWENS [interrupting]. I want to make sure we get some feedback also, so, thank you so much. Just real quickly, and then I have a question for you at the very end.

Mr. TUCKER. Congressman, I would say that I agree with what has been said thus far. And if it is OK with you, I could respond later in writing.

Mr. OWENS. OK, thank you so much.

Ms. Benford, as you know, last month, the Federal Highway Administration released a final ruling requiring States to set new standards of acceptable greenhouse gas emissions for the National Highway System. Aside from the fact that this administration does not have the legal authority to implement a greenhouse gas performance measure, rural communities in my district have raised concerns that small municipalities cannot replace commuter traffic, auto traffic, and reduce carbon emissions with new subways or rapid transit bus systems.

Do you share any of these concerns about the demands made on these communities?

Ms. BENFORD. Yes, I think I would share all the concerns that you just said. Being a rural community, again, I mentioned earlier that we emit less carbon dioxide emissions than many other States. And so, for us to follow those rules and decrease our emissions would—we are afraid what that would look like to our transportation system, and what kind of projects may not come out because of that.

Mr. OWENS. Well, I look forward to working with you on that, because we have the very same concerns. And across the country, rural communities are doing the same. So, thank you so much. I appreciate it.

Mr. ROUZER. The gentleman yields back.

Ms. Titus.

Ms. TITUS. Thank you Mr. Chairman, thank the witnesses for being here.

I don't see how we can talk about the state of transportation without acknowledging the just historic investments that were made by the bipartisan infrastructure bill and the work that Secretary Buttigieg and Mitch Landrieu have done identifying good projects, involving governments at all levels, emphasizing equity, and getting the money out the door as soon as possible.

I represent southern Nevada, Las Vegas primarily, and I have been working for many years, since 2001, to get a speed train between Las Vegas and southern Nevada. And now that has become a reality. We had $3 billion appropriated out of this bill to start this speed train. They expect that it will be done in time for the Olympics in Los Angeles. We have labor agreements in place, we also have done the environmental studies. It's about ready to break ground.

And listen to how it will be such a game changer. It's going to generate over $10 billion in economic activity, reduce carbon monoxide emissions by 400,000 tons, create more than 35,000 construction jobs, most of which are labor jobs, good-paying, good-benefit jobs. So, that is certainly a benefit that we have as we talk about the state of transportation.

Also, though, we are seeing a record amount of funding from the Bipartisan Infrastructure Law and the IRA about water quality, preventing erosion, keeping more water in Lake Mead. This helps to preserve the viability of natural resources in the West, and certainly ties to transportation.

So, I would ask you, Secretary Millar, looking at the fact that Nevada has received over $6.2 billion from these laws, with many of the investments focused on underserved groups or underrepresented groups, and that includes $580 million to ensure greater access to broadband, including in these rural areas that some have suggested aren't getting their share, and also millions in funding to improve the interconnectedness of public transit that so many people use to get to school, get to work, get to the doctor.

So, I would say, what are some of the ways that you are using it in Washington to expand access for these populations, and in keeping with one of the goals of the administration for equity in transportation?

Mr. MILLAR. Well, thank you for that question. We are spending formula dollars, and we are encouraging our local governments to apply for the discretionary grant dollars in a number of areas.

One program, the PROTECT program, for example, we elected to suballocate all of the money that Washington State got to local governments. And we are working with two Native American Tribes, their towns, their villages that—the headquarters of their Tribal units are on the Washington coast, and they are subject to sea level rise. And so, we are using the PROTECT money to move those communities back and up so that they are safe.

We are also making a point of investing in the overburdened communities of Washington State. We have the Justice40 stuff that we talk about at a national level. In Washington State, we call it the Healthy Environment for All Act, or the HEAL Act, that requires us to put an equity lens on every expenditure that we make. So, the money we are receiving for bicycle and pedestrian infrastructure is going into overburdened communities. The money we see for public transportation infrastructure is going into overburdened communities. The money we receive for preservation work is going into overburdened communities.

We put together a bridge program, a competitive bridge program for bridge rehabilitation and replacement for local governments up to $25 million a project, no local match requirement at all. In 2023, we did 50 local bridges with that money.

Ms. TITUS. Well, I am glad to hear that. Those are the kind of things we should be doing, and those are the goals of the administration, not only to have policy cross all levels of Government, but to go into all parts of the community.

Something that we are working on, too—I suspect it's kind of like your HEAL Act—are the Safe Streets, to be sure the streets are safe for all kinds of transportation, whether somebody is walking, or riding a bicycle, taking the bus, on one of the little scooters if you are disabled, and that's another way we can spread this money to all communities. So, I appreciate hearing from you about that.

I yield back.

Mr. ROUZER. The gentlelady yields back. Now to the man with the brightest tie I have ever seen in my life, Mr. Van Drew.

Dr. VAN DREW. Thank you, Chairman. It was a dark, cold morning, and I was up very early, and I just wanted to brighten my day. I am getting ready for St. Paddy's Day, too.

Mr. Tucker, you are from New Jersey. What part of New Jersey?

Mr. TUCKER. From Haddonfield, New Jersey.

Dr. VAN DREW. OK, so—well, I am almost in your district, but not quite. As you know, I have six counties in south Jersey, about 40 percent of the State, geographically. So, I bet that you come down in my district and vacation once in a while.

Mr. TUCKER. I own a place in—yes, at the beach, Ocean City.

Dr. VAN DREW. Which town? Ocean City. Beautiful. Good, glad to hear it. Spend a lot of money when you're there.

[Laughter.]

Dr. VAN DREW. Anyhow, thank you, Mr. Chair.

Joe Biden, which is going to be an unusual tack I'm taking, but you've got to follow me with this—he has let the southern border crisis get so bad that it is even affecting our Nation's supply chain. This past September and December, there were two separate shutdowns of international freight rail crossings at El Paso and Eagle Pass, Texas, and there was no indication of when they would even reopen. These closures were due to an historic influx of illegal immigration. We all know it. We see it.

There are over 8 million illegal immigrants in a few more months have entered the country, 300,000 illegal entries just in the month of December, 300,000. At the current rate, the number of illegal immigrants in our country will exceed the population of our home State, the State of New Jersey, in as little as 5 more months. The administration is literally creating the 51st State and the 10th most populous, fully comprised of illegal aliens.

These realities are contributing to the issues our supply chain faces even thousands of miles away from the southern border. It affects the entire country. In total, these rail border crossings account for roughly $34 billion in commerce. This is just one facet of our supply chain. How much more money does our country need to lose due to the effects of these illegal crossings? How much more evidence does this administration need before it will finally take action? Enough is enough.

Mr. Tucker, my friend from New Jersey, this question is for you. How do these closures impact both security and our supply chain relating to the southern border?

Mr. TUCKER. Congressman, the unexpected nature of the closures for freight is harmful. It's harmful for the railroads, it's harmful for the truckdrivers, it's harmful for the shippers, it's harmful for the receivers, it's harmful for the processors who are expecting to receive those goods, it's harmful for the retailers, it's harmful for the consumers.

There is a humanitarian crisis associated with what is happening down there with individuals jumping onto the train, children and women and men and people of all ages. So, as I said earlier, I am glad that I am not the one in charge having to deal with this mess. But what I can encourage our leaders to do is to work more closely, collaborate more, and communicate more with industry to engage industry's help, and give industry time to figure alternative routes if a crisis occurs.

And so, that's the main message, is: We are here. We are very involved every single day in the supply chain, and we are really smart people. But when we are surprised, and we don't have any opportunities to divert in enough time, that is very painful.

Dr. VAN DREW. I appreciate your candid answer. I have one more question. I know we only have a few seconds, but there is a lot of new technology out there, and this new technology enables us to have autonomous trucking, which concerns me a great deal. If you could, briefly comment on that.

And also what concerns me is the new technology. I bought a new vehicle, a GMC—I guess not politically correct, a Yukon Denali, but I have a lot of people that sometimes travel with me, and it's very safe and good. But the interesting thing, when I was updating the computer on that, when they wanted to update it, they said they would have to disable it for 15 minutes.

Is there actually the ability now—whoever knows the best on this can answer it—the ability to have a kill switch on a vehicle, and couldn't that expose us because of some of the cyber piracy that goes on?

Who wants to answer that real quick?

Mr. TUCKER. I can't answer that question about is there that ability and does it relate to trucking. I can't, that's not my specialty. I will say that I, too, am concerned about the security and the nature of security when you have an 80,000-pound vehicle on the road one day and perhaps it could be hacked into. I think a lot of work needs to be——

Dr. VAN DREW [interrupting]. And I know my time is up, but if they can turn it off to update it, they can turn it off just to turn it off. And somebody else might be able to hack into that. I appreciate your time.

Thank you, Mr. Chairman. I yield back.

Mr. ROUZER. Mr. Graves.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman. I want to thank you all for being here today.

Before I get started, Ms. Benford, Ms. Maloy asked you about some of the regulatory, and I want to clarify one thing. In fact, I will tell you a quick story.

When Mitch Landrieu called and was talking to me about being named the infrastructure czar, potentially taking that position, he asked me what I thought. And I told him, I said, "Here is your problem. Your problem is that this administration's regulatory agenda is entirely incompatible with the infrastructure agenda," meaning your regulatory agenda, it just continues becoming more and more bureaucratic, more and more redtape, more and more steps until you can't build things.

And we have seen that. As a matter of fact, taking Brookings Institute data from November of last year, time-wise, we were about 40 percent through the implementation of the IIJA. However, dollar-wise, we still have 80 percent of the discretionary money in the bank. And on top of it, when you start looking at the discretionary dollars—and I think this is a compounding problem—I think it's 50 percent, 50 percent of the discretionary funds are actually being spent on projects of $1 million or less.

And so, look, everybody in this room supports infrastructure. We wouldn't be on this committee if we didn't. But our problem, I think, at least on this side of the dais, is that the infrastructure bill is not focused upon true Federal obligations or true Federal needs.

Mr. Edwards, you have the gateway project, this massive $1.4 billion project. It is under your jurisdiction. If we are going to go out there and we are going to sprinkle these little $200,000, $300,000 grants all over, it's not advancing large-scale projects that I think really include not just the interest of the Federal Government, but the obligation and responsibility.

Lastly, Ms. Benford, coming back to my point here, those changes that you cited on dates and on pages, it's not because the administration or CEQ wanted to do it. It's because we mandated they do. We worked on legislation that was implemented that I will tell you the White House did not want to sign. They were forced to do it. It was one of, I think, the crown accomplishments of this Congress of folks, and it's not just about a 75-page limit on an EA, a 150-page limit on an EIS. It's not about a 1-year limit on the EA, a 2-year limit on an EIS. It raises the threshold. And when NEPA applies, it limits the scope to only reasonably foreseeable impacts. It ensures one Federal decision, not having this committee of folks out there trying to make decisions on natural resources. It really is crazy, what is going on right now.

Secretary Millar, you noted the improper, perhaps, resourcing of agencies. I think we need to ask a different question. You were saying that's why it takes so long to get these things done. I think we need to ask a different question. Are we appropriately scoping the projects from a NEPA or an environmental review or a regulatory perspective? That's the first question. We don't need to go out there and go do all these useless steps, and I will give you an example.

When the *Deepwater Horizon* oilspill happened in the Gulf of Mexico, we are looking through the oilspill plans. They are talking about walruses and polar bears—not kidding—in the Gulf of Mexico. And so, we can't go out there and go waste money on things that simply don't make sense.

So, Mr. Edwards, I want to ask you a question about your participation in projects, and if you have ideas or thoughts on how we could further streamline the implementation of projects and stop all of this regulatory redtape, and just get wrapped around the axle.

Mr. EDWARDS. All right, Congressman, thank you. What I would say is actually from a—taking a slightly different tack is that the Virginia Port Authority, we are a political subdivision, we stand alone. But we have an excellent working relationship with the Commonwealth of Virginia as a whole. And what we found on an integrated approach is we have been able to succeed. So, we have been able to get done the dollars we take to work.

Now, it may be unique in our space. I have mentioned prior to two of your colleagues that we do believe there is some modernization needed within places like the Maritime Administration on their NEPA approach. But as a general point of order, whether it is I have either got a great team who know how to do this or we have managed to work our way through bureaucracies, but we are actually managing to get to work, and we are not holding up our gateway project.

Mr. GRAVES OF LOUISIANA. Thank you.

Secretary Millar, I want to ask you a quick question. Half of my family lives and have lived in the Whidbey, Port Angeles, Suquamish, Vashon areas, and I have spent plenty of time on your ferries. Do you have any feedback on how the Federal Government could do a better job scoping where its focus is, as opposed to trying to throw a nickel at every $10 problem across the country?

Mr. MILLAR. I think focusing strategically on projects like the Interstate 5 Bridge over the Columbia River or the Puget Sound Gateway—lots of people are doing gateways, we are doing a $2 billion one—but identifying the programs and projects that are truly of national significance, and putting programs like the Mega grant program, for example, together to address them, while at the same time addressing the rural communities and small towns who want a piece of the pie, as well.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Secretary.

Mr. Chairman, we have a $2 billion bridge in my hometown that should have been done 40 years ago. There is an I–10 Bridge in Lake Charles that's on I–10 that is dilapidated. It is incredible, watching dollars being thrown at inappropriate priorities. And I really think we need to help the Federal Government focus.

I yield back.

Mr. ROUZER. Mrs. González-Colón.

Mrs. GONZÁLEZ-COLÓN. Thank you, Mr. Chair, and thank you to the witnesses for coming here today.

I want to try to be brief, but Puerto Rico cannot be an exception on what is happening in terms of the Nation. Actually the Associated General Contractors and American Society of Civil Engineers rank infrastructure on the island with a D– when the average overall score for the U.S. was C–.

So, in that sense, as you may know, Puerto Rico relies heavily on the maritime and shipping industry, and any delays or restrictions on maritime routes can potentially impact our island during regular operations, and more dramatically during emergency operations.

Having said that, I do have a question for Ms. Benford. In that sense, Puerto Rico remains on the path towards recovery in the aftermath of Hurricanes Irma and Maria back in 2017. And since then, we have received historic allocations of emergency funds, some of which are meant to address our transportation infrastructure, including bridges, ports, roads, and our power grid. Time is of the essence of all these funds, and are available for a limited amount of time, and they are desperately needed by the residents of the island.

And contractors are the key stakeholders. Could you please share some of your setbacks or challenges, if any, that have been identified by the AGC as a hindrance for contractors to bid or partake in disaster recovery projects financed by emergency Federal funds?

Ms. BENFORD. Yes. So, what I would say is, as a contractor, there are three keys to us being successful: problem solving, collaboration, and schedule, right? And so, I will go back to—and workforce is also an issue, and we have talked a lot about that today.

But for us to be successful as a team and make sure that we actually get this money implemented on the ground for the public, it means that all parties have to work together. So, we have talked about permitting. All these things have been talked about today. And I think just to kind of sum it up, it requires everybody to be at the table and willing to take the necessary steps to make sure that we can get this in place for the public.

Mrs. GONZÁLEZ-COLÓN. You talked about permitting, we talk about workforce, and I do agree with that, and my office views the Associated General Contractors, especially the Puerto Rico chapter, as a key stakeholder in assessing the State and the rate of construction through Federal funds and State investment.

But we do experience the same thing, like many of the States in the Nation, the rising costs on construction, and that is a big concern. We still have a lot of money that is not being used because we don't have the workforce to actually use it. And the same thing happened across the country.

But in your views, are there any flexibilities that we can identify or put in place as regulations, as amendments to laws, whether those be regulatory or in statute, that could support contractors or contracting companies operating in areas with increased or fluctuating construction costs that we can help?

I have heard ideas related to potential increase in flexibilities for—escalation cost is one of those. Would that be a helpful alternative?

Another issue is, of course, the lack of workforce. And can you share some of the best practices by States the AGC adopted that lead to larger workforce numbers?

Ms. BENFORD. So, I will start with price escalation. Our State does have price escalation. I would say that, as COVID hit and some other supply chains occurred, we did meet with our DOTs to try and get other supplies on those lists. And I think one thing that would be helpful is the 1980 Federal Highway's memo could be updated. A lot of people were confused as to whether they could utilize that memo when we were trying to get some other supplies on that list.

And workforce, it has been talked about a lot, but as a contractor, workforce is our number-one resource. And so, we have to do what is best for them to retain and recruit them. And the best option for us is flexibility. Not one size fits all of us contractors in every State, even in the same State. We all have a different way to operate, we all have a different expectation of what our products look like.

So, it's really flexibility. Giving us the ability—tools, but not mandating that those tools have to be utilized.

Mrs. GONZÁLEZ-COLÓN. Thank you. I know I am running out of time, but I just want to say to Mr. Edwards that Puerto Rico is heavily reliant on commercial maritime industry, so, that means that things like WRDA are most expected to work with ports and bays on the island, and the Army Corps of Engineers for port maintenance and improvements. And I know this committee is working to that end, as well.

So, thank you, Mr. Chairman. I yield back.

Mr. ROUZER. Mr. Burlison.

Mr. BURLISON. Ms. Benford, in light of the trillions of dollars that have been spent on our transportation infrastructure, we still have a C– rating, which has been mentioned earlier in this hearing, according to the American Society of Civil Engineers.

And when it comes to that infrastructure, some people might be asking, "Why?" How did we get to the point where we have a C– rating, despite how much money is being spent?

Ms. BENFORD. So, I would say that our company really hasn't seen the dollars yet, and even in our State. So, as I mentioned in my testimony, there is a lag between the dollars that actually got sent to the States, the design of those projects, and then us as contractors actually seeing the work.

So, I would say the bulk of the work actually hasn't hit us yet. And we are hoping—for Wyoming, we have been told that the end of 2024 into 2025 will be when we see that work hit.

Mr. BURLISON. I know this place likes to think that dollars are unlimited, but the fact is, they're not. I am looking at one of the appropriations that I consider wasteful, a wasteful program, and that's the nearly $8 billion that is sent to create electric vehicle charging stations, which, in my opinion, is a method of robbing Peter to pay Paul. It's robbing individuals from one sector of the economy or individuals who decide not to use an electric vehicle, to subsidize and pay for the infrastructure for the private-sector entity and/or individuals that are using electric vehicles. I don't think it's fair.

But when I reflect on the fact that nearly $8 billion—how much is that? In this place, that's not a lot of money. But you know, where I come from, that's a hell of a lot of money, $8 billion. In Missouri, we weren't able to expand—we had a dramatic need to expand I–70. And we still have a need to expand I–44 because of the amount of traffic. It's going to—Missouri—because of that, the bill that did pass is going to spend $2.8 billion to expand I–70 all the way from St. Louis to Kansas City. That's a long way. And yet, when I think about the impact $8 billion could have if it's spent appropriately, it could really impact a lot of people. Correct?

Ms. BENFORD. Yes, I would agree. I think it goes back to the flexibility of each State. I know that every State has different needs, and so, we just have to have that in mind.

Mr. BURLISON. Is it fair to say that it may not be that we have a spending problem, it's how we are prioritizing those dollars?

Ms. BENFORD. Yes. Again, back to flexibility to give everyone—for us in Wyoming, I know we struggle with the EV stations in general. We travel hundreds of miles between cities. And so, we would be putting two or three between each city, and then how do you power those?

So, there are challenges that come with designating money on its own. And we could, like you said, we could be using those dollars in different ways in our infrastructure.

Mr. BURLISON. Mr. Tucker, another reason why we have transportation issues and infrastructure issues is we place, in my opinion, a heavy regulatory burden on the industry. For example, trucking is not provided the flexibility that they need for their hours of service. FMCSA is close to finalizing a rule that would mandate the installation of speed limiters in trucks. Freight rail must give passenger rail, like Amtrak, the preference over the use of their rails, even though they don't even own the rail. Aviation is stifled by regulations requiring a shortage of pilots because we require a certain number of hours.

With these examples, do you believe that strict regulations are a big reason why our transportation infrastructure is lacking?

Mr. TUCKER. I think there are a lot of different reasons. Certainly, regulation is one of them.

I think, again, I have spoken frequently today about fraud in our industry, and that really does begin to slow things down. It causes a lot of pain, a lot of loss of cargo.

And I want to reiterate the importance of FMCSA to focus on safety and a little bit less on obscure regulations that are 50 years old or so and have no bearing today. We are still dealing with this as a trucking industry.

Mr. BURLISON. Thank you.

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

Mr. BURLISON. I yield back.

Mr. ROUZER. Well, thank you very much. Looking around, I don't see any other Members who have questions. I would like to thank our witnesses for their endurance today. It has been about 3 hours 15 minutes, and I appreciate the opportunity to have the back-and-forth. It was very informative.

Seeing no other Members with questions, this concludes our hearing for today. I would like to thank each of our witnesses again for being here and their time.

The committee stands adjourned.

[Whereupon, at 1:14 p.m., the committee was adjourned.]

Submissions for the Record

Statement of the National Stone, Sand, and Gravel Association, Submitted for the Record by Hon. Sam Graves

On behalf of the 450 members of the National Stone, Sand, & Gravel Association I am writing to thank the Committee on Transportation and Infrastructure for holding today's hearing on "The State of Transportation".

NSSGA members consist of stone, sand and gravel producers; industrial sand suppliers; and the equipment manufacturers and service providers who support them. With upwards of 9,000 locations, the aggregates industry produces 2.5 billion tons of materials used annually in the United States. Aggregates are the building blocks of our modern society and are needed to construct and maintain roads, railways, bridges, tunnels, water supply, sewers, electrical grids and telecommunications. The aggregates industry is working to deliver the billions of tons of construction materials needed to build the roads, bridges, tunnels, rail, transit, ports, energy facilities (including solar and wind), water conveyance systems, broadband capacity, and public works project funded through Congress' 2021 adoption of the largest infrastructure investment in our nation's history—the Infrastructure Investment and Jobs Act (IIJA). The State of Transportation is good but could be much better. For the past two years, we have supported rapid and efficient implementation of the IIJA and encouraged avoidance of policies not included in the IIJA being added to IIJA implementation. We are concerned that the historic investments included in the IIJA may not achieve the intended historic improvements to our transportation systems because of increased regulations and other Administration actions that advance policies not included in the IIJA. These additional regulatory burdens occur on top of workforce shortage challenges, increased inputs costs, including fuel, and wage increases.

Regulations

Federal Highway Administration Greenhouse Gas Performance Measure

On December 7, 2023, the Federal Highway Administration (FHWA) filed the final rule establishing national performance measures for reducing greenhouse gas emissions (GHG) associated with transportation. The rule amends 23 CFR Part 490 to add requirements for State DOTs and metropolitan planning organizations (MPOs) to establish declining carbon dioxide (CO2) targets and methods for measurement. The rule adds GHG measures to the National Highway Performance Program (NHPP) performance measures that FHWA established in 23 CFR part 490 through prior rulemakings.

The FHWA's final rule relies upon "reinterpreted" legal authority in 150 U.S.C. 23 and 119 U.S.C. 23. The NSSGA filed comments in the FHWA docket for the rule arguing that no legal authority existed for the promulgation of the GHG Performance Measurement rule. We noted that Congress during the development of the IIJA, considered the issue of GHG measurement authority and rejected their inclusion.

The NSSGA supports the reduction of global GHG emissions and strongly believes the establishment of authority to reduce GHG within Title 23 must occur through an act of Congress, not a rulemaking. It is only through an enactment that the authority claimed in the proposed rulemaking can be established. Just as importantly, the Congressional legislative process provides critical benefits to the proposed authority, including bi-partisan political benefits, improved policy structure and program design.

Project Labor Agreements

On Dec. 22, 2023, the Biden administration published a final rule Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction

Projects. This rule implemented Executive Order 14063, which subjected federal construction contracts of $35 million or more to anti-competitive and inflationary project labor agreements.

The NSSGA joined a diverse group of construction and business associations opposing the new rule and other policies pushing controversial PLAs on federal and federally assisted construction projects funded by taxpayers. In comments filed in opposition to the rule, we pointed out that PLA mandates artificially exacerbate a shortage of construction industry skilled labor; discourage competition from quality large, small, and disadvantaged construction businesses; and needlessly increase construction costs at the expense of significant recent taxpayer investments in infrastructure, clean energy and domestic manufacturing construction.

A PLA is a job site-specific collective bargaining agreement unique to the construction industry that typically requires companies to agree to recognize unions as the representatives of their employees on that job, use the union hiring hall to obtain most or all construction labor, hire apprentices from union-affiliated apprenticeship programs, follow union work rules and pay into union benefit and multiemployer pension plans that nonunion employees cannot access. This forces employers to pay "double benefits" into their existing plans and union plans, puts them at a significant competitive disadvantage and exposes them to unfunded multiemployer pension plan liabilities. In addition, PLAs typically require construction workers to pay union dues and/or join a union if they want to receive union benefits and work on a PLA project. If they do not satisfy these stipulations, nonunion workers lose an estimated 34% of their wages and benefits to union coffers and benefits plans—making them the victims of wage theft.

Particulate matter

On January 6, 2023, the EPA announced a proposal to amend the National Ambient Air Quality Standard (NAAQS) for fine particle matter (PM). The NSSGA joined with the National Ready Mixed Concrete Association (NRMCA) and the Portland Cement Association (PCA), expressing deep concern over the proposed EPA PM standard that would lower the NAAQS particulate matter standard (PM 2.5) from 12.0 micrograms per cubic meter of air (µg/m3) to within the range of 8.0 to 11.0 µg/m3. Reducing the proposed PM levels from 12 µg/m3 to the proposed 8–11 µg/m3 might appear small in theory, but its implementation would result in a significant shift, hindering the achievement of the Biden administration's core Infrastructure Investment and Jobs Act (IIJA) objectives. Complying with the lower standard would force U.S. manufacturers to reduce operational hours, decreasing construction material output and potentially leading to layoffs. This shortage could cause construction delays, impeding the administration's $550 billion infrastructure overhaul. Furthermore, this move could shift opportunities for supplying building materials to overseas competitors due to stringent U.S. emissions regulations, potentially disadvantaging American manufacturers.

CEQ NEPA Phase 2

The White House Council on Environmental Quality (CEQ) has issued several actions that complicate the permitting process for large infrastructure projects under the National Environmental Permitting Act (NEPA). By broadening definitions, adding more criteria, and duplicative federal agency reviews, are hindering the development of infrastructure projects that seek to improve environmental outcomes. What is more frustrating is that these new actions run counter to the bipartisan NEPA reforms that were included in the Infrastructure Investment and Jobs Act (IIJA). Aggregates suppliers across the country crave certainty, as we work to supply the billions of tons of essential materials needed to improve roads; upgrade bridges; advance transportation systems and ports; and advance our modern energy infrastructure that will be funded by the investments provided by the bipartisan IIJA. This is especially important in the current economic environment where needless red tape will delay project implementation and drive-up costs of construction materials. On July 21, 2023, the Council on Environmental Quality (CEQ) proposed a "Bipartisan Permitting Reform Implementation Rule" revising its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA), including amendments to NEPA contained in the Fiscal Responsibility Act.

The NSSGA supports the goals of NEPA to inform federal decision-making and the public's understanding of the potential environmental impacts of federal actions to foster effective engagement in the federal decision-making process. A fair and efficient federal permitting system is essential for timely investment to meet a wide array of critical needs and is consistent with NEPA.

Recognizing that an overly complex federal permitting process often impedes critical projects, Congress included in the Fiscal Responsibility Act of 2023 ("FRA"), which significant amendments to NEPA to simplify NEPA's overcomplicated, needlessly burdensome and often endless review process. The NSSGA joined coalition comments to CEQ's Regulations Revisions Phase 2 ("Proposed Rule") pointing out provisions of the proposed rule that were contrary to the clear congressional intent and explicit direction on the FRA NEPA amendments.

The Proposed Rule fails to respect the strong bipartisan spirit that drove the FRA's NEPA amendments and fails to effectively improve and further reform the permitting process. While it adopts, as it must, elements of the FRA, many of its provisions contradict the FRA's intent: to create a more efficient, predictable, and straightforward federal review process.

The Proposed Rule revises the existing NEPA regulations to drive substantive outcomes favored by this Administration's policy priorities. This approach contravenes decades of case law, agency practice, and consistent government interpretation that achieved the fulfillment of NEPA's intent through a rigorous process to enable informed and transparent decisions, all without tipping the scales in favor of particular substantive outcomes. Favoring such particular outcomes is shortsighted and re-orients the application of a landmark statute in a fashion that ultimately is destabilizing and self-defeating. If finalized in its current form, the Proposed Rule would portend a never-ending cycle of regulatory reversals between Administrations, eroding public confidence and depriving the business community and the public of the predictability needed for substantial investment in long-term projects.

Supply Chain

Improvements to the reliability of rail service is an essential step towards improving the reliability of supply chains for aggregates. The NSSGA has supported actions by the Surface Transportation Board (STB) to improve service reliability, service consistency, and adequate local service. The NSSAG supports the STB's proposed rule on "Reciprocal Switching for Inadequate Service". This rule will hold rail carriers accountable, provide rail shippers some measure of relief from poorly performing incumbent rail carriers, and enforce, in the Board's own words, "unambiguous, uniform standards . . . consistently applied across Class I rail carriers and their affiliated companies." NSSGA continues to support this critical action and the NPRM as a whole, subject to the modifications NSSGA advanced in its comments. By providing reciprocal switching rules, aggregate shippers will be provided additional remedies for poor rail service. Further improvements to the efficiency and predictability of aggregate shipments are expected through soon to be announced amendments to STB's Emergency Service Regulations. These amendments are expected to provide shippers with an accelerated process for remedies in urgent situations of service impedance.

Build America, Buy American Act

On August 23, 2023, the Office of Management and Budget (OMB) released the final guidance implementing the Build American, Buy America Act (BABAA) contained in the IIJA. The NSSGA led efforts to ensure the final guidance accurately reflected Congressional intent with regard to the limitation of domestic content procurement preferences for materials listed in section 70917(c).

While the guidance did accurately reflect congressional intent for section 70917(c), challenges remain in the consistent implementation of BABAA at the state level. State DOTs are employing varying BABAA compliance certifications which are inconsistent from one state to another. States continue to vary in their classification analysis for manufactured products versus construction materials leading to procurement confusion and slowed contract lettings. Further guidance from FHWA with more granular direction to the State should be provided to improve consistent implementation and reduce confusion and delay.

Conclusion

In conclusion, the National Stone, Sand, & Gravel Association (NSSGA) extends its heartfelt gratitude to the Committee for the opportunity to testify and share insights on the current state of transportation. This hearing has been instrumental in highlighting the pivotal role of the aggregates industry in the development of our nation's infrastructure. As a key contributor to essential construction projects, our members face numerous challenges, including regulatory burdens, workforce shortages, and the complexities of implementing the Infrastructure Investment and Jobs Act (IIJA). The Association's concerns regarding the Federal Highway Administration's greenhouse gas performance measures, the enforcement of Project Labor Agreements, and the amendments to particulate matter standards in the National Ambient Air Quality Standards are intended to underline our commitment to environmental stewardship balanced with practical regulation. As an industry, we are appreciative of the committee's willingness to consider these important perspectives, which are vital for navigating the intricate intersection of regulatory, environmental, and legislative frameworks in advancing the nation's infrastructure goals.

Letter of January 26, 2024, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Catherine Chase, President, Advocates for Highway and Auto Safety, Submitted for the Record by Hon. Eleanor Holmes Norton

JANUARY 26, 2024.

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

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

Thank you for convening the January 17, 2024, hearing, "The State of Transportation." Ensuring the safety of the public on our nation's roadways is fundamental to a successful transportation system. Advocates for Highway and Auto Safety (Advocates) respectfully requests this letter be included in the hearing record.

ROADWAY SAFETY REQUIRES SWIFT INTERVENTION

On average, 118 people were killed every day on roads in the U.S. in 2021,[1] totaling nearly 43,000 fatalities. An additional 2.5 million people were injured.[2] This represents a 27 percent increase in deaths in just a decade.[3] Early projections for 2022 traffic fatalities remain high,[4] as do estimates for the first six months of 2023.[5] In addition to vehicle occupants, other road users experienced upturns in deaths. Pedestrian fatalities grew by 13 percent, and bicyclist deaths were up two percent from 2020 to 2021.[6] While pedestrian fatalities are estimated to have decreased one percent in 2022, bicyclist fatalities spiked by 11 percent.[7] We urge you to prioritize safety in policies and legislation involving roadway infrastructure, commercial motor vehicles (CMVs) and the supply chain.

TRUCK CRASH FATALITIES AND INJURIES ARE ALARMINGLY HIGH AND EXTREMELY COSTLY

In 2021, 5,788 people were killed and nearly 155,000 people were injured in crashes involving large trucks.[8] Since 2009, the number of fatalities in large truck crashes has increased by 71 percent.[9] In that same timespan, the number of people injured in crashes involving large trucks increased by 109 percent.[10] Early estimates indicate that in 2022, traffic fatalities in crashes involving at least one large truck

[1] Overview of Motor Vehicle Traffic Crashes in 2021, NHTSA, Apr. 2023, DOT HS 813 435. (Overview 2021).

[2] Overview 2021.

[3] 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].

[4] Traffic Safety Facts: Crash Stats, Early Estimate of Motor Vehicle Traffic Fatalities in 2022, NHTSA, Apr. 2023, DOT HS 813 428. (Early Estimates 2022).

[5] 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.

[6] Overview 2021.

[7] 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.

[8] Overview of Motor Vehicle Traffic Crashes in 2021, NHTSA, Apr. 2023, DOT HS 813 435.

[9] *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.

[10] Traffic Safety Facts 2021 Data: large Trucks, NHTSA, June 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.

were up another two percent; 5,887 people were killed.[11] 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.[12] The cost to society from crashes involving large trucks and buses was estimated to be $143 billion in 2019, the latest year for which data is available.[13] When adjusted solely for inflation, this figure amounts to over $156 billion.[14]

Prompt Implementation of The Infrastructure Investment and Jobs Act (IIJA) is Critical

Commonsense solutions were advanced by the Committee during the consideration of the IIJA.[15] 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 all road users and prevent crashes. 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. The Committee advanced additional vital provisions to improve safety on our nation's roads including those to address impaired driving, improve the safety of vulnerable road users, expand the Safe Routes to School program and mitigate underride crashes.

Opposition to Weakening Essential Safety Regulations Must be Resolute

Issues involving the nation's supply chain have not been properly addressed for decades and should not be worsened. We urge the Committee to reject the following proposals that fail to address the root of these issues and will jeopardize all road users.

"Teen Truckers" are a substantial threat to public safety. CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes, as compared to CMV drivers who are 21 years of age and older, and CMV drivers ages 19–20 are six times more likely to be involved in fatal crashes (compared to CMV drivers 21 years and older).[16] Yet, some segments of the trucking industry have been pushing to allow teenagers to operate CMVs in interstate commerce for at least 20 years, often relying on their own forecasts for the number of drivers needed as a rationale. These projections have consistently failed to materialize.[17] The trucking industry continues to face a driver retention crisis, not a driver shortage. In fact, Mr. Jeffrey Tucker, Chief Executive Officer, Tucker Company Worldwide, testified during the hearing that there is not a driver shortage and perpetuating this falsehood could negatively affect the supply chain.[18]

Driver fatigue plagues the trucking industry. The National Transportation Safety Board (NTSB) has repeatedly cited fatigue as a major contributor to truck crashes.[19] Self-reports of fatigue, which almost always underestimate the problem, find that fatigue in truck operations is a significant issue. Expanding the hours truck drivers can drive or undermining use of Electronic Logging Devices (ELDs) to track driving hours in an attempt to move more goods puts truck drivers, their loads and everyone on the roads with them at risk.

America's crumbling infrastructure needs improvements not disproportionate damage from overweight trucks that threaten public safety. While certain special interests advocate suspending federal limits on the weight and size of CMVs in response to purported supply chain issues, these laws are essential to protecting truck drivers, the traveling public, and our nation's roads and bridges. Raising truck weight

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[11] 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.

[12] Insurance Institute for Highway Safety (IIHS), Large Trucks. See: https://www.iihs.org/topics/fatalitystatistics/detail/large-trucks.

[13] 2022 Pocket Guide to Large Truck and Bus Statistics, FMCSA, Dec. 2022, RRA–22–007.

[14] CPI Inflation Calculator, BLS, available at https://www.bls.gov/data/inflation_calculator.htm.

[15] Pub. L. 117–58 (2021).

[16] Campbell, K. L., Fatal Accident Involvement Rates By Driver Age For Large Trucks, Accid. Anal. & Prev. Vol 23, No. 4, pp. 287–295 (1991).

[17] FMCSA Document ID: 2000–84100–0782. American Trucking Associations, Truck Driver Shortage Analysis 2015 (Oct. 2015).

[18] "The State of Transportation" Hearing, U.S. House of Representatives Transportation and Infrastructure Committee, January 17, 2024. Video available at: https://transportation.house.gov/calendar/eventsingle.aspx?EventID=407090

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

or size limits could result in an increased prevalence and severity of crashes and cause increased wear and damage to our roadway infrastructure and bridges. Given the negative impacts, there is overwhelming opposition to any increases to truck size and weight limits. The public, local government officials, safety, consumer and public health groups, law enforcement, first responders, truck drivers and labor representatives, families of truck crash victims and survivors, and even Congress on a bipartisan level have all rejected attempts to increase truck size and weight. The IIJA is investing billions of dollars across every state in our nation to improve and elevate the safety of our roads and bridges. These improvements should not be undercut by allowing bigger or heavier trucks.

Autonomous driving system (ADS) technology may reduce crashes involving CMVs in the future, but safe deployment on our nation's roads now is not a viable option and should not be proposed as a solution to the current supply chain issues. The advent of this technology must not be used as a pretext to eviscerate essential safety regulations administered by the Federal Motor Carrier Safety Administration (FMCSA), and particularly in the absence of new standards to ensure the technology performs safely and as needed. The public safety protections provided by the Federal Motor Carrier Safety Regulations (FMCSRs) become no less important or applicable simply because a CMV has been equipped with an ADS. In fact, additional substantial public safety concerns are presented by autonomous commercial motor vehicles (ACMVs).

Autonomous driving technology is still in its relative infancy as evidenced by fatal and serious crashes involving passenger motor vehicles equipped with ADS of varying levels.[20] If those incidents had involved ACMVs, the results could have been even more catastrophic, and the death and injury toll could have been much worse. Some of the most pressing safety shortcomings associated with autonomous vehicle (AV) technology, which include the ADS properly detecting and reacting to all other road users, driver engagement and cybersecurity, are exponentially amplified by the greater mass and force of an ACMV. As such, it is imperative that ACMVs be subject to comprehensive regulations, including having a licensed driver behind the wheel for the foreseeable future.

Advocates and numerous stakeholders developed the "AV Tenets," policy positions which should be a foundational part of any AV legislation.[21] The AV Tenets have four main, commonsense categories including: 1) prioritizing safety of all road users; 2) guaranteeing accessibility and equity; 3) preserving consumer and worker rights; and, 4) ensuring local control and sustainable transportation. While the AV Tenets were developed for application to vehicles under 10,000 pounds, many of the principles also could apply to larger commercial vehicles. At a minimum, ACMVs must meet safety standards for the ADS and related systems, including for cybersecurity, and operations must be subject to adequate oversight as a starting point for their potential deployment. In March 2023, Advocates released a public opinion poll that found that 86 percent of respondents were concerned with sharing the road with driverless trucks.[22] Moreover, 64 percent of respondents indicated that their concerns would be addressed if the vehicles were required to meet minimum government standards.

We commend Congress for the safety advances included in the bipartisan IIJA and have been urging the U.S. Department of Transportation (DOT) to implement the directives with urgency to address the motor vehicle crash fatality and injury toll. With roadway fatalities remaining at a historically high level, expediency is of the essence.

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

Sincerely,

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

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

[20] NHTSA, Standing General Order 2021–01 (Aug. 2021).
[21] See: https://saferoads.org/autonomous-vehicle-tenets/.
[22] Big Village CARAVAN SURVEY, Public Concern About Driverless Cars and Trucks (Feb. 2023).

Statement of the National Association of Small Trucking Companies, Submitted for the Record by Hon. Mike Ezell

The National Association of Small Trucking Companies (NASTC) commends the committee for holding this hearing on the present state of U.S. transportation. While transportation faces a range of challenges, NASTC underscores a major challenge and cause of supply-chain disruption domestically: fraud and theft of trucked and brokered freight.[1]

NASTC is a member-based organization whose 15,000 member companies range from a significant segment that operates on the single-power-unit, owner-operator model to carriers having more than 100 power units; NASTC members average 12 power units. These companies mostly operate in the long-haul, over-the-road, full-truckload, for-hire, irregular-route sector of interstate trucking. NASTC's members come from the largest segment of America's long-haul trucking: small motor carrier businesses. They are representative of the vast majority of our nation's commercial motor carriers, those having fewer than 100 power units, which the Transportation Intermediaries Association's (TIA) witness Mr. Jeffrey Tucker mentioned in his written testimony.

Fraud perpetrators and criminal enterprises plaguing trucking and brokerage account for a conservatively estimated 3,500 instances annually. Mr. Tucker testified that freight fraud is an $800 million problem.[2] The estimated number of fraud crimes understates the actual amount of occurrences because many crimes go unreported. The underwhelming level of law enforcement against these crimes discourages many motor carriers and truck drivers from spending the time and effort filing reports with federal transportation authorities.

In fact, the level of such criminality is extensive and entails such crimes as double brokering, identity theft, bait-and-switch, and embezzlement of the funds that intermediaries are required to receive in trust and pay to the carrier.[3] These crimes fall especially hard on small trucking companies, as more than 400 NASTC members have attested. New entrant owner-operators and small carriers increasingly face skeptical shippers and brokers, who hesitate to place freight loads with new entrants who have been in business for only a few months.

NASTC and allied stakeholders have illuminated "the severity of the problem and its effect on interstate commerce" in public comments. The real-life "instances of theft of cargo, double brokerage and misappropriation of funds" illustrate the "systemic problems of supply chain fraud involving organized crime and broker related fraud."[4] Fraudsters that pose as legitimate entities prey upon commercial motor carriers and freight brokers, who suffer great harm (financial, operational, reputational), while the harmful effects spread much wider. These crimes impose a heavy cost on the innocent parties involved, including manufacturers, shippers, wholesalers, retailers, and consumers, not to mention the efficiency and reliability of our supply chain.

These frauds and thefts are enabled by two things: high-tech tools and relative nonenforcement of applicable criminal laws. These criminals can expand at scale because of their ability to exploit technology. They are easily able to open under one company name, operate for a short while, close soon thereafter, and quickly reopen under a different name. It becomes a whack-a-mole exercise for law enforcement. Thus, these criminals presently face little risk of law enforcement investigation and much less risk of being caught and prosecuted.

Truck transportation and other stakeholders including NASTC have called to the Federal Motor Carrier Safety Administration's (FMCSA) attention "the importance of vigorous retention and enforcement of these [interstate transportation] rules by not only FMCSA but the United States Department of Transportation." We point out "FMCSA's primary charter is to address highway safety . . . [and] assigning safe-

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[1] Todd Dills, "FMCSA needs a 'cop on the block' fighting brokered-freight fraud," Overdrive (Nov. 29, 2022) (https://www.overdriveonline.com/regulations/article/15303681/meaningful-enforcement-needed-to-fight-freight-fraud).

[2] Testimony of Jeffrey Tucker (https://transportation.house.gov/uploadedfiles/2024-1-17_fc_hearing_-_jeff_tucker_-_testimony.pdf).

[3] See Liz Young, "Growing Freight Fraud is Peeling Millions From the U.S. Shipping Market," Wall Street Journal, April 26, 2023; Todd Dills, "Growing broker/carrier identity theft schemes reaping million," Overdrive, March 9, 2020; and "Cyber Scams and High-Tech Heists: Securing Freight in the Age of Strategic Cargo Theft," Supply Chain Brain, Nov. 7, 2023.

[4] Air & Expedited Motor Carriers Assn., et al., comments on "Notification of Interim Guidance: Definitions of Broker and Bona Fide Agents" (FMCSA–2022–24923), Jan. 17, 2023 (https://www.regulations.gov/comment/FMCSA-2022-0134-0103). Appendices include examples of transportation-related crimes, a list of existing statutes and rules under which transportation and brokerage crimes are enforceable, and an example of DOT OIG's successful prosecution of such crime.

ty ratings to all carriers" and its lack of authority in criminal enforcement matters. While the DOT Office of Inspector General has investigated, developed, and won cases against freight fraudsters under current law,[5] what exists today "is a piecemeal approach to addressing a major issue of general transportation importance."[6] That is, the problem is scale; OIG has the authority, the expertise, and the ability, but the level of pursuit of these criminals is lacking.

The consensus solution NASTC and other stakeholders have proposed is that the "Office of the Inspector General ('OIG') at the U.S. DOT level establish a permanent task force to monitor supply-chain fraud complaints with the Secretary, and to investigate and prosecute fraudulent activity consistent with existing civil and criminal penalties."[7]

The key to reducing freight fraud in its many forms is sustained, focused enforcement against this class of criminality. The Transportation OIG is the appropriate agency for this task. It will take vigilance to hold these criminals accountable as well as congressional support for this solution in order to make a dent. NASTC and other transportation and intermediary stakeholders, including TIA and the Owner-Operator Independent Drivers Association (OOIDA), have noted that OIG's successes, such as prevailing in the Padilla double brokerage case, show OIG's statutory authority, capability, and institutional effectiveness for combatting these crimes.

NASTC appreciates the initiative Sen. Mike Braun and Rep. Mike Bost took in 2023 in contacting OIG about forming an antifreight fraud task force. We also thank Rep. Bost for continually raising this issue in this and other committee hearings. We ask the committee to lend its support to this remedy. Freight fraud is a nonpartisan problem that requires a bipartisan solution. An OIG task force would put a cop on the block where today criminals operate with virtual impunity.

[5] For example, see "Tijuana Man Pleads Guilty to 'Double-Broker' Scheme Targeting San Diego Truckers" (https://www.justice.gov/usao-sdca/pr/tijuana-man-pleads-guilty-double-broker-scheme-targeting-san-diego-truckers).

[6] Air & Expedited Motor Carriers Assn., et al., comments.

[7] Air & Expedited Motor Carriers Assn., et al., comments.

APPENDIX

QUESTIONS TO STEPHEN A. EDWARDS, CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, VIRGINIA PORT AUTHORITY, FROM HON. MIKE EZELL

Question 1. Several large shipping firms have imposed fees to reroute ships to avoid the ongoing attacks in the Red Sea. This is yet another untimely disruption to an already suffering supply chain. As we all know, the COVID–19 pandemic highlighted the need to be able to transport necessary equipment swiftly during emergencies. We also know these shipping delays trigger a chain of events. To minimize these impacts there must be a system in place at Ports and a method of prioritization to ensure urgent supplies are delivered in a timely fashion. That is why I, along with my colleague, Representative Garamendi, introduced the FAST PASS Act. This legislation directs the Secretary of Transportation to study the most efficient way to get critical supplies into our Ports in critical situations.

Mr. Edwards, in the fall of 2022 when the West Coast ports were horribly delayed, the Port of Virginia partnered with ocean carriers and freight rail to re-route critical cargo across the country. Don't you think the federal government has something to learn from these kinds of public-private partnerships? Should DOT study the best ways to fast pass critical cargo for future publicly declared emergencies?

ANSWER. During the initial months of the COVID–19 pandemic probably without exception marine terminal operators and ports were able to expedite emergency supplies for delivery when these cargoes were identified to them. Our industry has a history of ensuring priority of response to both domestic and international emergencies. The nature of supply chain is a co-dependency, as a result each operator knows and has a business relationship with each other that can be leveraged best by the industry players when emergencies require this.

I do believe the federal government can learn from best practices. While each port and marine terminal complex is different, they perform the same functions as a node. Clearly during the fall of 2022, ports across the nation performed at markedly different operating levels and the federal government naturally concentrated on where the problem was. A review of best practices and why ports operated to vastly different standards at that time could be useful for the federal government to mitigate future disruption.

QUESTION TO JEFFREY G. TUCKER, CHIEF EXECUTIVE OFFICER, TUCKER COMPANY WORLDWIDE, INC., ON BEHALF OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION, FROM HON. BURGESS OWENS

Question 1. Mr. Tucker, during the hearing, we had a discussion about ways that we can modernize trade, particularly on how inland ports can minimize supply chain bottlenecks and hold China accountable. Can you please further share your thoughts with the committee?

ANSWER. Relative to China and holding them accountable, if I may, I'd like to take that in a different direction and urge the Administration and this committee, and others with jurisdiction to find ways to encourage or even demand that U.S. companies who provide critical infrastructure and life-saving and life-sustaining products have multiple suppliers and not be entirely dependent upon China. The FLOW Initiative and the President's Council on Supply Chain Resiliency are on the right track. And while this is not a free market recommendation, it carefully considers the ramifications to national security.

QUESTION TO JEFFREY G. TUCKER, CHIEF EXECUTIVE OFFICER, TUCKER COMPANY WORLDWIDE, INC., ON BEHALF OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION, FROM HON. MIKE EZELL

Question 1. I heard from our constituents and members of TIA, KLLM Transport Services, who are struggling with fraud and the lack of reporting avenues available. You also mentioned in your testimony how fraud continues to be a growing problem in the trucking industry.

In your opinion, what are the most effective ways to prevent fraud and how can Congress better address this issue?

ANSWER. Congressman Ezell, thank you for the question on fraud in the supply chain. This is a major issue in the transportation industry that affects shippers, brokers, carriers, and eventually consumers who bear the brunt of this with the inflationary impacts. The criminals that are perpetrating the fraud in the marketplace use many different tactics and types of fraud. In response to these activities industry stakeholders, Congress and the federal agencies tasked with motor carrier and broker registration have a role and responsibility to play in combating this.

Within our trade association, TIA we have stood up internal taskforce to information share and best practices to help alleviate problems. Additionally, we are working in coalition with other industry stakeholders to educate and inform the transportation community of the problems and potential solutions that exist.

Congress has done an admirable job at trying to keep the Federal Motor Carrier Safety Administration (FMCSA) honest in their efforts to enforce and head off fraud as well. We will ask Congress to continue to do that.

The FMCSA, to their credit, have begun looking into these issues, but are woefully behind in addressing this major concern. Because of the lack of enforcement from the agency over the past 3 years has essentially told these criminal elements, can you commit fraud with no repercussions. At one point in time a couple of years ago, FMCSA informed us that over 10,000 complaints existed in the National Consumer Complaint Database related to fraud with no activity.

We have established a wish list of ideas that we think the FMCSA could take fairly quickly to address these concerns and would not constrain them in terms of resources. The wish list includes, the following items:

1. Verify the identity of the entity. Verify the business license with the state they are domiciled in. Place motor carriers out of service who cannot be verified.
2. Require the FMCSA to post the sale of a motor carrier or broker business on the Federal Register, so that stakeholders know that the company has changed hands, and the USDOT/MC number may not be a representation of the current ownership.
3. Enforce the Principal Place of Business requirements for registration and shut down licensed entities operating out of P.O. boxes, UPS and FedEx boxes and entities that operate at the same address.
4. Do not allow electronic changes to an entity's record without a pin that must be validated through dual factor authentication.
5. Amend the FMCSA registration system to update registration updates in real-time. The current model of 30 days allows scamsters to make changes with no legitimate updates until 30 days later.
6. Implement and enforce the provisions of MAP–21 that require a licensed broker or forwarder to have three years of relevant experience or demonstrate sufficient knowledge of the industry to the Secretary.
7. Establish an internal Fraud Task Force within the Department of Transportation and the Inspector General's office.
8. Require dispatch services to register with the FMCSA as such and enforce the guidance released by the Agency and the CFR that dispatch services cannot be a bona fide agent of more than one motor carrier.
9. Greater coordination and integration between all three different data sets that the Agency utilizes (Volpe, MCMIS and DataQs).

I truly appreciate your interest in addressing fraud in the supply chain and look forward to working with you further to combat this issue.

QUESTION TO LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, FROM HON. ERIC A. "RICK" CRAWFORD

Question 1. Ms. Benford, your written testimony states: "For the construction industry, managing inflation defined 2023. Since February 2020, the average cost of construction materials has increased by 37%; nearly twice as high was the rate of consumer inflation, which was 19% during that same period . . . More specifically, highway construction costs have increased 50% since December 2020, according to the Federal Highway Administration's National Highway Construction Cost Index (NHCCI)." [1]

Can you please detail how you anticipate inflation remaining a challenge for the construction industry in 2024?

ANSWER. Inflation and the high cost of construction materials continues to be one of the biggest challenges that construction companies face. As a result, it is driving up the costs of infrastructure projects nationwide. I would highlight diesel costs as one of the biggest challenges. High diesel costs mean construction companies must pay more to operate equipment, deliver materials to jobsites, and haul away dirt, debris, and equipment. Likewise, construction workers themselves feel the pain of higher commuting costs—particularly for jobs in rural areas where workers often have long commutes. While inflation has slowed, prices have not returned to normal and are still elevated.

However, contractors remain mostly upbeat. AGC's economic outlook survey [https://www.agc.org/news/2024/01/04/2024-construction-hiring-and-business-outlook] also highlights fears about the impacts of higher interest rates on demand for construction and the risk that the economy could enter a recession. In addition to these new worries, contractors remain concerned about workforce shortages and their impact on construction prices and schedules. Contractors continue to see projects being delayed—sometimes indefinitely—because of rising costs, slower schedules, and shrinking demand for the finished products.

QUESTIONS TO LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, FROM HON. JENNIFFER GONZÁLEZ-COLÓN

Question 1. Ms. Benford, in response to my question about flexibilities that could be examined to help address cost escalations for contractors in areas with notably increased construction costs, like Puerto Rico, you responded that it would be helpful for the 1980 Federal Highway memo to be updated.

Could you please clarify if you were referring to the memo titled "Development and Use of Price Adjustment Contract Provisions," dated December 10, 1980, with classification code T 5080.3? If so, can you please explain how an update to this memo would be helpful?

ANSWER. Correct, I was referring to the "Development and Use of Price Adjustment Contract Provisions" technical advisory [https://www.fhwa.dot.gov/programadmin/contracts/ta50803.cfm] with classification code T 5080.3. While the document gives clear guidance and best practices for price adjustment clauses it is over forty years old. These price adjustment clauses are not needed during "noninflationary" times. As a result, state department of transportation offices are less familiar. For example, prior to 2022, most construction companies hadn't utilized one of these provisions on a highway project since the housing crisis in 2008. As you can imagine there is a lot of staff turnover at a state DOT in those 14 years. In early 2022 we had state DOTs telling AGC chapters that FHWA did not allow for the use of price adjustment clauses. Often, by the time it was clarified, it was too late for such clauses to be included in contracts.

Making it clear that these price adjustment clauses are allowed by FHWA would provide clarity for state DOTs. Likewise, most states require approval from their state legislature to utilize these provisions. By ensuring states have the most up to date information in an updated advisory, we can ensure that we will be ready for the next time they are needed.

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[1] *The State of Transportation: Hearing Before the H. Comm. on Transp. and Infrastructure*, 118th Cong., (2024) (written testimony of Lauren Benford, Controller of Reiman Corporation).

QUESTIONS TO LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, FROM HON. TRACEY MANN

Question 1. Ms. Benford, in regards to the WOTUS, or Waters of the U.S., the Biden Administration continues to ignore the clear decision by the Supreme Court in the *Sackett* vs. *EPA* case regarding the definition of Waters of the U.S. under the Clean Water Act. What new uncertainties exist due to the Administration's changes post-*Sackett*? Did the Navigable Waters Protection Rule offer more or less clarity to you and to your members?

ANSWER. In response to the *Sackett* case, the agencies made only slight edits to their earlier 2023 WOTUS definition when they released the amended rule in September of that year. Namely, they removed reference to the "significant nexus" test and revised their definition of adjacency in relation to federally jurisdictional wetlands. The agencies retained all the ambiguity of their earlier attempt.

The resultant rule uses vague terms, such as with the application of the "relatively permanent" standard, heavily relies on case-by-case analysis, and leaves the regulated community guessing what the law is on many projects. This is especially true with their handling of ephemeral waterways, in direct contrast to *Sackett*, where the agencies now refuse to define ephemeral and instead default to individual analysis.

"Surgically" amending portions of their 2023 rule did not fix the legal issues with their approach, which is why AGC is challenging the amended rule in court. The Association's legal concerns include the agencies' handling of interstate waters, their application of the relatively permanent test, the overly broad coverage of impoundments, and the vague approach to tributaries that ignores *Sackett*.

The Navigable Waters Protection Rule offered the regulated community significant improvements in clarity in contrast to previous decades' worth of regulatory uncertainty. That clarity increased confidence in their ability to understand and comply with legal requirements without hiring an army of consultants and attorneys. However, that rule would need to be updated to reflect the *Sackett* ruling.

QUESTIONS TO LAUREN BENFORD, CONTROLLER, REIMAN CORPORATION, ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, FROM HON. MIKE EZELL

Question 1. We talked a lot in this committee over the past year about the implementation of IIJA. Two of the primary concerns we explored were inflation and the supply chain. Still, this continues to be an issue. Just last month I heard from Mississippi stakeholders with concerns over meeting upcoming ARPA deadlines. The state of Mississippi chose to invest most of the ARPA funds in improving water infrastructure. Unfortunately, the number of contractors and individuals available to complete this work is limited. This, compounded with several states competing for the same contracts and supply chain issues, several fear these lifesaving projects will not be completed in time.

Ms. Benford, do you have suggestions to maximize the use of these funds—the way Congress intended? Do you believe it is possible to meet the current ARPA deadlines?

ANSWER. I think the period of availability for funding in the American Rescue Plan Act (ARPA) is going to be problematic for a lot of states. Among other things, supply chain constraints, inflation, and work force shortages have made doing construction challenging the past few years.

I cannot speak to the specifics of the projects in Mississippi, but I can tell you it is why we ask Congress for flexibility when they authorize funding for construction. There are a multitude of factors—cold climate, rugged terrain, a work force shortage, project readiness, permit delays—that can slow down construction. These are also things that are largely out of control of a construction company but forced to mitigate. I would encourage you to explore legislation to extend the ARPA funding deadline for an additional two years to ensure these projects can be completed.

Question to Lauren Benford, Controller, Reiman Corporation, on behalf of the Associated General Contractors of America, from Hon. Celeste Maloy

Question 1. Ms. Benford, when discussing permitting reforms in your written testimony, you stated that "AGC is concerned that the White House Council on Environmental Quality (CEQ)'s changes add bureaucratic steps in an already onerous and slow process, require more time-consuming analyses, and increase litigation risk for project decisions. Additionally, the association is concerned that the changes will encourage agencies to impose requirements that go beyond CEQ regulations and would slow agency decision-making and discourage the transformational investments needed across the economy. Federal agencies are not just making changes to NEPA, they are systematically reversing all streamlining reforms from recent years as well as introducing additional requirements that will delay projects."

Can you please expand further on this for the committee?

Answer. Two areas where the Administration is adding requirements to the beleaguered NEPA process are related to climate change and environmental justice. The Administration's approach has been to add new layers of costly and time-consuming analysis and outreach on top of a process that already takes a deep dive into environmental, cultural, and community impacts and already provides multiple opportunities for public engagement. For now, NEPA is not a substantive environmental regulation: It outlines a process to ensure that federal actions have not skipped over any of their obligations presented in the substantive environmental regulations. The Administration wants to change the intent of NEPA to influence environmental outcomes of federal actions. But to respond to the question, it's important to understand that each of the substantive environmental regulations requires an often lengthy and expensive permitting process that also includes public engagement.

The prior Administration had sought to streamline the permitting processes within the Clean Water Act and the Endangered Species Act, among others. Most of those advancements have been or are in the process of being reversed by the current Administration: CWA definition of Waters of the United States (see response above to question from the Honorable Tracey Mann) as well as Section 404 Nationwide Permits; CWA Section 401 Water Quality Certifications; ESA interagency cooperation, consultation, designation of critical habitat, and protections for threatened species. In some cases, the agencies are making the requirements more stringent than before, for example, proposed changes to the ESA regulations would newly require mitigation where longstanding practice was to implement reasonable and prudent measures. The new National Ambient Air Quality Standards for Fine Particular Matter is another example where the agency voluntarily reviewed the standard ahead of schedule and tightened it by 25 percent. The change in NAAQS will have reverberations on permitting for several years down the road, even though about 86 percent of emissions come from nonpoint sources such as unpaved roads and wildfires.

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