



Statement of

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Committee on Transportation & Infrastructure
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Hearing on

Under Pressure: The State of Trucking in America

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Chair Norton, Ranking Member Davis, and members of the distinguished subcommittee, thank you for providing the American Trucking Associations (ATA)¹ with the opportunity to testify before you today. I would like to begin my testimony by recognizing your leadership and focus on our nation's crumbling infrastructure. The trucking industry stands ready to work hand-in-hand with this subcommittee, Congress and the Administration to bring an end to the continuing cycle of underinvestment in infrastructure, which results in significant harm to both our economy and the safety of the motoring public. Under your guidance, we remain hopeful that federal action can solve this growing national crisis.

ATA is an 86-year old federation and the largest national trade organization representing the trucking industry, with affiliates in all 50 states. ATA's membership encompasses over 34,000 motor carriers and suppliers directly and through affiliated organizations. Our association represents every sector of the industry, from LTL to Truckload, agriculture and livestock to auto haulers, and from the large motor carriers to the owner operator and mom and pop one truck operations. In fact, despite the claims by some before you today that ATA only represents the "mega-carriers," 80 percent of our membership is comprised of small-sized carriers, whereas only 2 percent of our membership would be considered large-sized carrier. And, our federation has members in every Congressional district and every community.

Trucking is the fulcrum point in the United States' supply chain. This year, our industry will move 70 percent of the nation's freight tonnage, and over the next decade will be tasked with moving three billion more tons of freight than it does today while continuing to deliver the vast majority of goods.² More than 80 percent of U.S. communities rely exclusively on trucks for their freight transportation needs. Trucks haul 100 percent of the freight originating in the District of Columbia, and DC residents and businesses rely on trucks to deliver 98% of the goods coming into the District. More than two-thirds of the freight delivered to and from Illinois was loaded onto a truck. In 2017, the goods moved by trucks were worth more than \$10 trillion.³ The trucking industry is also a significant source of employment, with 7.7 million people working in various occupations, accounting for every 1 in 18 jobs in the U.S.⁴ Furthermore, "truck driver" is the top job in 29 states.⁵

Without trucks, our cities, towns and communities would lack key necessities including food and drinking water; there would not be clothes to purchase, and no parts to build automobiles or fuel to power them. The rail, air and water intermodal sectors would not exist in their current form without the trucking industry to support them. Trucks are central to our nation's economy and our way of life, and every time the government makes a decision that affects the trucking industry, those impacts are also felt by individuals and by the millions of businesses that could not exist without trucks.

With this hearing, we appreciate the subcommittee's focus on the trucking industry, as it relates to infrastructure, interstate commerce and safety. As Congress looks towards the next surface transportation reauthorization bill, many of the topics addressed today will be key areas of interest and concern, which may shape the drafting of a legislative and regulatory framework that trucking will operate under in the years to come. The hearing's title rightly recognizes the state of the trucking industry, and that is "under pressure." Indeed, the trucking industry is in many ways at an operational crossroads.

Madam Chair, the trucking industry is on the cusp of a transformation in the movement of freight, one that you and your colleagues will greatly influence. Radical technological change will, in the near future, allow

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

² *Freight Transportation Forecast 2018 to 2029*. American Trucking Associations, 2018.

³ *2017 Commodity Flow Survey Preliminary Report*. U.S. Census Bureau, Dec. 7, 2018.

⁴ *American Trucking Trends 2018*, American Trucking Associations.

⁵ <https://www.marketwatch.com/story/keep-on-truckin-in-a-majority-of-states-its-the-most-popular-job-2015-02-09>

trucks to move more safely and efficiently, and with less impact on the environment than we ever dared to imagine. Yet we are facing headwinds, due almost entirely to government action or, in some cases inaction that will slow or cancel out entirely the benefits of innovation. Failure to maintain and improve the highway system that your predecessors helped to create will destroy the efficiencies that have enabled U.S. manufacturers and farmers to continue to compete with countries that enjoy far lower labor and regulatory costs and standards.

We are at a critical point in our country's history, and the decisions made by this subcommittee, Congress, and the Administration over the next few months will impact the safety and efficiency of freight transportation moving forward. For the purpose of this hearing, I will focus my testimony on four key areas that will have the greatest and most immediate impact on the trucking industry: 1) Safety and Technology; 2) Workforce Development; 3) Infrastructure; and 4) Trade. Included in the accompanying Appendix is a comprehensive list of ATA's Surface Transportation Reauthorization Priorities, provided for your consideration and review.

ATA looks forward to working with this subcommittee, and each and every member of Congress, as we pursue the legislative and regulatory framework that will ensure our nation's surface transportation needs are met. That framework must be grounded in safety, science, data and training. We commend you for holding this important hearing, to the benefit of the trucking industry, interstate commerce and the millions of Americans and U.S. businesses that rely on the safe and efficient movement of our nation's goods.

1) SAFETY & TECHNOLOGY:

The safety of our nation's roads and bridges, and that of the motoring public, is undeniably of paramount importance. And safety anchors the very foundation of the trucking industry, shaping our core values and decision-making. That is why the trucking industry invests approximately \$10 billion annually in safety initiatives, including truck onboard technologies such as electronic logging devices, collision avoidance systems, and video-event recorders. Investments that also include driver safety training, driver safety incentive pay, and compliance with safety regulations (*e.g.*, pre-employment and random drug tests and motor vehicle record checks). While some of these investments are made to meet a myriad of regulatory requirements, many of them are voluntary, progressive safety initiatives adopted by our members. And, they are paying dividends in highway safety. That being said, there is still more work to be done, and we are committed to the goal of accident and fatality-free highways.

Madam Chair, the below section will briefly highlight the trucking industry's safety record, and the many ways in which our members continually work to improve upon it. Safety is a process that continually adapts and evolves. Our members persistently work to adopt processes and best practices that will make their fleets even safer. Meaningful improvements will require an acknowledgement of the principal causes of truck crashes and a commitment to making appropriate countermeasures the highest priority.

THE TRUCKING INDUSTRY'S SAFETY RECORD:

Since 1980, when the trucking industry was deregulated, both the number of fatal truck crashes and rate of fatalities have declined dramatically:⁶

- From 1980-2017, there has been a 69% decrease in the large truck involved fatal crash rate;

⁶ *Large Truck and Bus Crash Facts 2017*, Trends chapter, Table 4, page 7, Federal Motor Carrier Safety Administration, Washington, D.C. <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/tcbf-2017-final-5-6-2019.pdf>.

- From 1980-2017, there has been a 71% decrease in the combination truck involved fatal crash rate; and
- In 2017, 72% of large truck crashes had no truck driver-related factors recorded in multiple-vehicle crashes.

The decline in large truck-involved fatal crashes since 1980 is due, in part, to industry-supported initiatives, many of which were used prior to becoming a mandated federal regulation. For instance, the use of Electronic Logging Devices (ELDs) was prevalent in ATA member fleets dating back to the early 2000s. Now, federally mandated use of ELDs has already had a positive effect on safety. Additionally, ATA members support the use of additional safety initiatives that will improve safety, such as the requirement for states to provide an employment notification system to alert employers of drivers' moving violations and license suspensions in a timely fashion, the use of alternative testing specimens to detect drug use, and vehicle safety technologies that can create a safer environment for all motorists.

TRUCK CRASH CAUSATION STUDY AND CRASH DATA:

For the trucking industry to constantly improve our safety record, it is important that more research and attention is focused on the causes of truck-involved crashes, with a resulting emphasis on undertaking the appropriate countermeasures. Specifically, according to multiple studies, data, and other indicators, the vast majority of large truck-involved crashes are the result of driver behaviors and errors. Furthermore, data indicates that other motorists, not the professional truck driver, are more likely to be at fault. According to a Federal Motor Carrier Safety Administration (FMCSA) report, 70% of fatal crashes involving a large truck and a passenger vehicle are initiated by the actions of, or are the fault of, passenger motorists.⁷ The American Automobile Association (AAA) conducted their own version of this study and found that in truck-related crashes, the critical factor leading to the crash was attributed to the passenger vehicle driver 75% of the time.⁸ Additionally, the AAA study found that in 10,732 fatal car-truck crash records from 1995-98, the car drivers were more likely to be cited for multiple unsafe acts. The study found that 36% of car drivers were cited for two or more unsafe acts, versus 11% of truck drivers.⁹

To be effective in reducing commercial motor vehicle crashes, we must first understand the true causes of these crashes. The Motor Carrier Safety Improvement Act of 1999 (MCSIA)¹⁰ mandated a study to determine the cause of, and contributing factors to, crashes involving commercial motor vehicles. In 2006, FMCSA published a report identifying areas that need to be addressed by effective crash countermeasures¹¹. With significant improvements made to the Federal Motor Carrier Safety Regulations (FMCSRs), ATA believes that initiating a new Large Truck Crash Causation Study (LTCCS) would be an effective tool in understanding the increase in large truck-involved crashes. A LTCCS should include a large sample size so that all segments of our industry are included, and the data is an accurate reflection of real-world operations. We recognize that recent data indicates that truck-involved crashes are increasing.¹² Our industry does not deny this. We do, however, require accurate data that can direct our efforts and resources in appropriately addressing and halting this increase. Understanding the role of

⁷ *Financial Responsibility Requirements for Commercial Motor Vehicles*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, January 2013, page xii, footnote 2.

⁸ Kostyniuk LP, Streff FM, Zakrajsek J. *Identifying Unsafe Driver Actions that Lead to Fatal Car-Truck Crashes*. Washington DC: AAA Foundation for Traffic Safety, April, 2002.

⁹ Ibid.

¹⁰ Motor Carrier Safety Improvement Act of 1999, H.R.3419, 106th Cong. (1999).

¹¹ *Report of Congress on the Large Truck Crash Causation Study*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, March 2006.

¹² *Large Truck and Bus Crash Facts 2017*, Trends chapter, Table 4, page 7, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, Washington, D.C. https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/l_tcbf-2017-final-5-6-2019.pdf.

driver behavior in crash causation will shed additional light on how FMCSA's use of enforcement funding and resulting activity can be most cost-effective.

Just as a LTCCS will help identify the cause of large truck crashes, unified electronic crash report data will help to provide accurate and timely data on truck-involved crashes. Several states have already adopted electronic collection of crash reports, and many have seen the ability to provide more timely and accurate information to stakeholders. "Real-time" data allows law enforcement and transportation safety professionals to respond more quickly to escalating trends and "hot spots" and helps ensure limited resources are allocated to areas with greatest need. ATA supports federal funding for states to adopt electronic crash report data collection, along with funding support to upgrade existing systems, implement NHTSA's Model Minimum Uniform Crash Criteria data fields and training of staff on new systems.

Crash causation studies and the accurate and timely data reporting on truck-involved accidents will help our industry understand and make targeted and meaningful improvements to road safety. However, I reiterate that our focus on improving safety is not just reactionary in nature, but the core value of trucking. Our industry is proactively taking steps to prevent the crash from occurring in the first place, as evident in the safety processes our members have established—processes that go well beyond what is required by Federal regulations.¹³ These investments include safety technologies, safety training and driver safety incentive pay. Many of these investments were industry-supported initiatives that were not mandated at the time. For instance, ATA was an early advocate for mandatory drug and alcohol testing, the commercial driver's license program, a ban on radar detectors in trucks, and the soon to be implemented drug and alcohol clearinghouse.

ELECTRONIC LOGGING DEVICES:

ATA members have long used ELDs, with many carriers installing this critical safety technology long before the December 2017, Congressionally-mandate implementation. Accordingly, we whole-heartedly support the industry-wide adoption of ELDs, and the significant impact this critical technology has on improving public safety—a technology implementation that was fully litigated, widely debated, congressionally-mandated, and most recently reaffirmed by FMCSA in denying most ELD exemption requests.¹⁴ Compared to the outdated pen and paper methods of tracking driver hours, this modern-day technology is more accurate, easier to enforce, more difficult to falsify, and – most importantly – will save lives.

Efforts in Congress to repeal this important mandate from certain fleets, such as H.R.1697, the Small Carrier Electronic Logging Device Exemption Act, are misguided, supported by misinformation, and an attempt to evade compliance with the existing laws and regulations governing duty hours and driver fatigue. In fact, given that 91 percent of all for-hire motor carriers in the United States operate six or fewer trucks, this legislation would serve only to cripple the ELD rule and give back much of the safety benefit it has brought. Enacting a bill such as this would pave the way for non-compliant carriers to avoid this important safety mandate and evade compliance with existing HOS regulations, which is not in the best interest of public safety.

Opponents of the ELD implementation argue that the device has made highways unsafe by not allowing a driver to rest when tired. ATA, with its core principles rooted in the commitment to highway safety, would adamantly oppose any device that does not allow a driver to rest when tired. The simple fact is that ELDs have not changed the HOS rules that have been in place since the early 2000's. The requirements for how long a driver may operate a commercial vehicle, or the minimum amount of time a driver must be off-duty, were not affected by the implementation of ELDs. ELDs have simply replaced

¹³ ATA's Safety Investment Study 2016, <http://www.trucking.org/>.

¹⁴ 83 Fed. Reg. 63194 (December 7, 2018).

the traditional “paper log” with an electronic version that automatically records a driver’s duty status based on electronic data from the vehicle’s engine and GPS location data. The argument that an ELD does not allow a driver to rest when tired is simply false, as the device is merely a recordkeeping method to ensure accuracy with a driver’s HOS.

There is, however, irrefutable evidence that ELD technology has proven effective in improving safety and increasing compliance. Since the December 18, 2017, ELD implementation date, HOS violations have dropped by more than half, and continue to fall.¹⁵ The decline in these violations, such as a driver driving beyond the maximum number of hours allowed, is a direct result of ELDs. Now that the initial ELD compliance date has come and gone, fleets have adopted the required technology and are compliant. FMCSA has stated that since April 1, 2018, less than 1% of the nearly 3 million driver roadside inspections have resulted in a driver being cited for not having an ELD.¹⁶ FMCSA’s 2014 report titled “Evaluating the Potential Safety Benefits of Electronic HOS Records” quantified the benefits of ELD use, finding that carriers using ELDs saw an 11.7 percent reduction in crash rate and a 50 percent reduction in HOS violations compared to those who had not adopted this safety technology. The study concluded that “the results show a clear safety benefit, in terms of crash and HOS violation reductions for trucks equipped with ELDs.”¹⁷ This and other evidence has convinced ATA and the vast majority of safety-focused carriers within in the trucking industry, along with law enforcement, Congress, FMCSA, and numerous federal courts, to support the ELD final rule.

HOURS OF SERVICE:

As the trucking industry has adjusted to the December 2017 implementation of ELDs, concerns have been raised by varying segments of the industry for needed flexibility in commercial motor vehicle operators HOS. While HOS regulations are designed to provide the framework for the safe and efficient movement of goods, there has come to light the need for greater HOS flexibility to provide drivers the ability to adjust to changing road and weather conditions, congestion and sensitive truck loads.

To address those concerns, in August 2018, FMCSA initiated a rulemaking on potential changes to the HOS rules. That rulemaking received over 5,200 comments with input on potential changes. This response has led FMCSA to move forward with issuing a Notice of Proposed Rulemaking (NPRM) which is currently at review with the Office of Management and Budget (OMB) and is expected to be published later this month. ATA – and, other industry stakeholders – continue to provide input to the agency on potential technical corrections to the HOS regulations that will allow greater flexibility for various segments of the industry.

As the agency moves forward with potential adjustments to HOS, those changes must be based on safety data that demonstrates the change will create a level of safety that is equal to or greater than the level of safety that currently exists. Changes that lack the proper data and science supporting a safety benefit should not be considered.

Additionally, while ATA would encourage the subcommittee to exert its oversight role in considering and reviewing FMCSA’s forthcoming NPRM, we caution the subcommittee on dangerous and reactive legislation that is not grounded in safety, science or data. Legislation like H.R.487, the Transporting Livestock Across America Safely Act. While the bill’s title is well-chosen, the legislation as drafted is a dangerous overreach, more than doubling the number of hours currently deemed safe for continuous commercial motor vehicle operation. While ATA understands and appreciates that livestock and

¹⁵Federal Motor Carrier Safety Administration, Electronic Logging Device Hours-of-Service Violation Information Graphic. Retrieved February 28, 2019, from <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/regulations/enforcement/406471/eld-hos-compliance-jan2019.pdf>.

¹⁶ Ibid.

¹⁷ 79 Federal Register 27041 (May 12, 2014).

agricultural haulers are a unique sector of the industry facing distinctive HOS challenges that should be reviewed and safely addressed, more than 24 hours of straight driving is not safe in a car, and it is even less so while transporting a trailer filled with livestock. This bill, and others like it, needlessly and recklessly threatens the safety of people traveling our highways, and should be rejected outright by this subcommittee and Congress.

EMPLOYER NOTIFICATION SYSTEM:

ATA believes the FMCSA should establish a national employer notification system to provide motor carrier employers with timely alerts to driver license actions, such as suspensions, revocations, and convictions for moving violations. Use of this system should be voluntary, at least initially. Under the current process, motor carriers often are not notified about drivers' convictions in a timely manner. Employers are required to check each driver's record once per year, however this record may reveal violations committed up to 11 months earlier. Employees are required to notify their employer of a violation of any State or local traffic law (other than a parking violation) within 30 days of a conviction, and of a license suspension, revocation, or cancellation within one day. However, they are often reluctant to do so because of the potential negative ramifications on their employment. FMCSA estimates that at least 50% of drivers may not notify employers of convictions and licensing actions within the required time-frames.¹⁸

In 2007, a pilot ENS program was conducted to assess the feasibility, cost, safety impact, and benefits of such a system; and to assess methods for efficient exchange of driver safety data from existing State systems. The pilot program, tested in Colorado and Minnesota, allowed motor carriers to register, with the driver's expressed permission, to receive timely electronic notifications of convictions and suspensions. The results of the pilot indicated that a nationwide ENS was needed and could have significant safety and monetary benefits for motor carriers. In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) supported FMCSA's plans to develop and implement a national driver record notification system for commercial vehicle operators. ATA supports a standardized ENS approach and is advocating a national ENS system.

HAIR TESTING:

An increasing number of motor carriers are conducting pre-employment and random drug tests using drivers' hair as a testing sample. Hair tests provide a better, longer picture of an applicant's past drug use and are more difficult than other testing methods to subvert. However, since urine is the only sample type permitted under DOT regulations, companies that voluntarily conduct hair tests must do so in addition to mandatory urine tests. This duplicated time and expense deters fleets from adopting this more effective testing method. To help eliminate this redundancy and incent more fleets to conduct hair testing, ATA strongly supports the recognition of hair testing as a federally-accepted drug testing method.

The Substance Abuse and Mental Health Services Administration (SAMHSA) has long expressed an interest in recognizing hair testing as a Federally-accepted drug testing method, and has been developing guidelines to recognize hair testing since the early 2000s. Unfortunately, progress has been inexcusably slow. As a result, in 2015, Congress directed the Secretary of the Department of Health and Human Services (HHS) to "issue scientific and technical guidelines for hair testing as a method of detecting the use of controlled substances for purpose of section 31306 of Title 49, United States Code" by December 4, 2016.¹⁹ Unfortunately, this Congressionally-mandated deadline is now more than 2 years overdue. HHS missed this deadline, and continues to ignore the Congressional mandate.

¹⁸ *Driver Violation Notification Service Feasibility Study*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, July 2005, figure 1, page 1.

¹⁹ Fixing America's Surface Transportation Act §5402, (2015).

Development of standards by HHS will pave the way for regulated employers to use this testing method and allow them to identify a greater number of safety-sensitive employees who violate Federal drug testing regulations. Additionally, having hair testing as a recognized alternative drug testing method would give motor carriers the ability to report positive hair test results to drivers' subsequent prospective employers through FMCSA's forthcoming Commercial Driver's License Drug and Alcohol Clearinghouse.

Recognizing this unacceptable delay, in March 2018, the President signed H.R. 1625 the TARGET Act with report language to HHS on the Federal Drug Free Workplace Program that, "The agreement strongly encourages the Secretary to expeditiously produce the technical guidelines for the use of hair testing as a Federally-accepted drug testing method."²⁰ And most recently, H.R.6 the SUPPORT for Patients and Communities Act, the comprehensive opioids package passed by Congress and signed into law in October 2018, included important oversight and reporting requirements for HHS to follow in completing its work on hair testing. The legislation requires HHS to report to Congress on the status of hair testing guidelines within 60 days of enactment and annually thereafter until final publication. The report will include: (1) the status of the hair testing guidelines; (2) an explanation for why the hair testing guidelines have not been issued; (3) a schedule, including benchmarks, for the completion of the hair testing guidelines; and (4) an estimated date of completion of the hair testing guidelines.

ATA urges Congress and this subcommittee to put further pressure on HHS to pave the way toward adoption of this important safety initiative. Unfortunately, while this country in recent years has seen prescription opioid abuse grow to an epidemic, and an uptick of drug-impaired driving, we continue to wait for these critical technical guidelines to be completed, so that DOT can recognize the use of hair testing as a federally-accepted drug testing method.

AUTOMATED AND CONNECTED VEHICLES:

Madam Chair, I would now like to discuss automated vehicle technologies that we believe will help make our industry and workplace, the roads and bridges crisscrossing this country, safer. Automobile and truck manufacturers have been automating functions of vehicles for decades, such as the antilock braking system and cruise control. As technical solutions have grown, and costs have become more reasonable, policymakers and regulators are trying to catch up to the market-driven innovation and proliferating technologies. Collision avoidance system functionalities are becoming more affordable and standard on new light vehicles, and truck OEMs are on a similar path.²¹ New technology companies and traditional equipment suppliers are also developing automated vehicle technology specifically for the trucking industry, further accelerating the development of automated vehicle technologies in the trucking industry.²²

The safety benefits from advancing automated truck technology also parallels the importance of intelligent transportation systems. Plans of deploying dedicated short-range communication (DSRC) devices on vehicles to enable vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications – collectively known as V2X – have significant future safety benefits to next generation U.S. transportation.²³ Much work has been done by federal and state governments, research institutions, technical standards organizations, and technology companies to develop DSRC-based V2V protocols and

²⁰ TARGET Act, H.R.1625, 115th Cong. (2018).

²¹ (March 8, 2019). *ALL INTERNATIONAL® ON-HIGHWAY TRUCKS TO COME STANDARD WITH BENDIX WINGMAN FUSION*. Retrieved from https://www.bendix.com/media/documents/press_releases/2019/All_International_On-Highway_Trucks_To_Come_Standard_With_Bendix_Wingman_Fusion_319.pdf

²² (January 30, 2019). *Self-Driving Truck Startup Embark Releases Performance Data*. Retrieved from <https://www.ttnews.com/articles/self-driving-truck-startup-embark-releases-performance-data>

²³ Chang, J. (2016, July). *Summary of NHTSA heavy-vehicle vehicle-to-vehicle safety communications research*. (Report No. DOT HS 812 300). Washington, DC: National Highway Traffic Safety Administration.

applications for single and combination vehicles. Additionally, safety impacts of automated or assisted braking and steering are being studied and will likely show significant improvements in mitigating crashes and injuries.²⁴ As vehicles are able to communicate with one another, the safety on our roadways can be vastly improved.

Similarly, truck platooning – a DSRC platform technology that utilizes V2V and advanced driver assistive systems – has passed through early stages of testing and development, and may be deployed in the near future. Truck platooning could improve fuel efficiency for commercial vehicles, but more importantly, have added safety benefits as well—allowing the “platoon” of vehicles to instantly react to one another, such as applying the brakes faster than a human reaction. While the full impacts of automated and connected vehicles on workforce training, and labor regulation are not yet clear – as the effect of automation on trucking and logistics operations is still developing along with the technology – ATA does not perceive this technology to be “driverless” for the trucking industry, but instead a vital driver assist tool. We expect that there will continue to be a role for drivers in trucking for the foreseeable future, similarly to pilots who are still in the cockpit of airplanes, fifty years after automation entered the aviation. Though that role for automation could certainly be modify and adjust as the technologies continue to advance. A major role of drivers is responsibility for the security and oversight of the cargo, some of which is heavily regulated, especially hazardous or agricultural loads. More challenges to consider involve hours of service regulations, cybersecurity, insurance liability, roadside events, enforcement and first responder situations.

Connected vehicles continue to be discussed as a potential safety technology. In January 2017, NHTSA published a proposed rule establishing a safety standard to mandate V2V communications for new light vehicles and to standardize the message and format of V2V transmissions.²⁵ Also, FHWA issued guidance for V2I communications, which help transportation planners integrate the technologies to allow vehicles the ability to communicate to roadway infrastructure.²⁶ Currently, three connected vehicle pilot programs are underway in Wyoming, Tampa, and New York City.²⁷

In addition, some auto manufacturers are seeking cellular V2X (C-V2X) frequency, not DSRC, to be dedicated on some channels of the 5.9 GHz spectrum for vehicle safety communications. As long as the full breadth of 5.9 GHz spectrum is allocated for vehicle safety, then V2X technologies will enter the scene, allowing cars, trucks and infrastructure to communicate with each other. ATA believes that it is vitally important that the 5.9 GHz spectrum that has been reserved by the FCC exclusively for V2V and V2I communications be preserved against encroachment from other uses such as Wi-Fi, otherwise many important promises of automation will be lost. The FCC is anticipated to render a decision about the use of the 5.9 GHz spectrum, and whether it will be allocated to vehicle safety use or divided between that original purpose and unlicensed Wi-Fi users. If the full breadth of the 5.9 GHz spectrum is allocated for vehicle safety, then V2V and V2I technologies will enter the scene in an accelerated manor, better allowing cars, trucks and infrastructure to communicate with each other.

ATA also believes that including the trucking industry in the framework of the development and testing of automated and connected vehicle technologies is crucial. ATA continues to engage with the FCC, FMCSA and other administrations within USDOT as well as other stakeholder advisory groups on

²⁴ (May 22, 2019). *Development of Baseline Safety Performance Measures for Highly Automated Commercial Vehicles*. Retrieved from <https://www.fmcsa.dot.gov/research-and-analysis/technology/development-baseline-safety-performance-measures-highly-automated>

²⁵ (January 12, 2017). *Federal Motor Vehicle Safety Standards; V2V Communications*. Retrieved from <https://www.federalregister.gov/documents/2017/01/12/2016-31059/federal-motor-vehicle-safety-standards-v2v-communications>

²⁶ (January 19, 2017). *FHWA Announces Vehicle-to-Infrastructure Guidance*. Retrieved from <https://www.transportation.gov/briefing-room/fhwa0317>

²⁷ *Connected Vehicle Pilot Deployment Program*. Retrieved from <https://www.its.dot.gov/pilots/>

automated and connected vehicles to ensure that the trucking industry's perspective is considered as future policies are being developed. ATA continues to work with State Trucking Associations and state legislators and transportation officials as policies, regulations, and research emanate from cities, states, universities, and businesses. ATA has also engaged with other stakeholders to study and address workforce issues related to automated trucks, as a founding member of the Partnership for Transportation Innovation & Opportunity.

ADVANCED DRIVER ASSISTIVE SYSTEMS:

Although some automated driving systems and Vehicle-to-Vehicle technologies may be utilized in the near future, ATA member companies presently support and utilize systems to enhance the safety of their fleets. Substantial advancements have been made in vehicle collision mitigation technology through advanced driver assistive systems (ADAS), including advanced radar and LiDAR devices; enhanced camera and vision technologies; improved object detection algorithms, and automated steering and braking. Automated emergency braking (AEB) – a form of ADAS technology – detects an impending forward collision with another object in time to avoid or mitigate the accident. AEB systems, such as dynamic brake support (DBS) and crash imminent braking (CIB), use multiple onboard vehicle sensing technologies to monitor the proximity of approaching objects to warn the driver and/or apply DBS and CIB depending on the relative speed and distance between the host and opposing vehicles that suggest a collision is imminent.²⁸

In addition to AEB, commercial vehicles may now be equipped with ADAS such as:

- Adaptive Cruise Control (ACC) – A method for drivers to allow the system to keep a safe space in following traffic while maintaining a set speed through automated braking and accelerating;
- Forward Collision Warning (FCW) – A feature that can complement AEB and can generate audible, haptic and visual alerts when a rear-end conflict emerges;
- Blind Spot Detection (BSD) – A variable amount of sensors for detecting vehicles and vulnerable road users (can be speed dependent) that surround the truck and can warn the driver – or system – during maneuvers;
- Lane Departure Warning (LDW) – A system alert for the driver when the vehicle drifts past lane markings without signal;
- Active Electric Steering (AES) – A combination of automated technology and sensory devices that can adjust the vehicle's heading; preemptively steer away from emergency situations, and maintain driver comfort during harsh environments;
- Lane Keeping Assist (LKA) – An AES feature that positions the vehicle center of its driving lane and can maintain slight turning directions;
- Camera Monitoring Systems (CMS) – Distinct camera devices mounted around the vehicle that enhance driver vision capabilities for blind spot “No Zone” areas and poor sight capabilities. CMS also has the availability to replace conventional truck mirrors for increasing safety and fuel efficiency; and
- Adaptive Driving Beam (ADB) Headlighting – A “smart” vehicle head light safety feature that adjusts the forward lighting brightness automatically through sensing detection technology for reducing glare on surrounding traffic while enhancing the driver or system's viewing capability in reducing accidents with vehicles and vulnerable road users.

In October 2015, NHTSA granted a petition for rulemaking to establish a safety standard to require ADAS on certain heavy vehicles.²⁹ The agency is currently conducting research to evaluate real-world performance of these systems through track testing and field operational testing. NHTSA also announced

²⁸ *Driver Assistance Technologies*. Retrieved from <https://www.nhtsa.gov/equipment/driver-assistance-technologies>

²⁹ 80 Federal Register 62487 (October 16, 2015).

a commitment by majority of the U.S. auto market to make AEB a standard feature on virtually all new light-duty vehicles no later than NHTSA's 2022 reporting year.³⁰ Additionally, AEB to be standard on virtually all new light-duty commercial vehicles with a gross vehicle weight between 8,501 lbs. and 10,000 lbs. beginning no later than Sept. 1, 2025. ATA supports AEB for all new vehicles (Class 1-8) through a USDOT voluntary program challenging vehicle manufacturers to standardize AEB on new vehicles, and ATA supports carrier-based programs to expedite ADAS technology adoption.

MISGUIDED SAFETY TECHNOLOGY MANDATES:

While discussing safety technologies that our industry utilizes, both mandated and voluntarily, I also urge this subcommittee to use caution and best judgement as you consider technology mandates on the trucking industry that, while well intentioned, may lead to unintended consequences and negative impacts on both the industry and road safety. An example of this can be found in recent legislative attempts to mandate an unproven device known as a "side underride guards" on the trucking industry. Recently introduced in both the House³¹ and Senate³², the Stop Underrides Act calls for the mandating of these devices on the sides and front of virtually all commercial vehicles, including the retrofitting of already manufactured and in service vehicles.

This legislation, while a response to specific tragedies, seeks to address a certain type of truck involved accident through a highly prescriptive industry-wide mandate. Regrettably, the bill is not based on science, data or safety benefit. Moreover, it ignores potential technical issues a mandate of this nature raises, as well as the other technologies that exist for addressing these and other crashes, such as automatic emergency braking, camera monitoring systems, and adaptive turning assist. And, the bill ignores the diversity of our industry. In trucking, we know that one size does not fit all, and that investments in certain technologies that one company makes may not make sense for another. Standards for new and in-service truck equipment should be based on sound economic and engineering principles that enhance safety, take into account real-world operations, and weigh possible unintended consequences.

The Stop Underrides Act also fails to consider numerous complicating factors such as engineering tradeoffs involving weight, strength, and effectiveness of side guards. Currently, the only testing that has been accomplished involves a closed course staged dry van 53' trailer with a dummy car speeding perfectly perpendicular at its side underride guard well below highway speed limits. Furthermore, the bill raises significant operational issues related to ground clearance, moveable trailer axles, and the diversity of truck and trailer designs. For example, the ridged specified design of side underrides would not work well with tank and bulk trailers that are cylindrical in size and require underbelly accessibility; flatbed trailers, which unloaded, are naturally curved to suppress weight; and intermodal trailers that are shipped and locked onto specific designed chassis for hauling. Simply put, these glaring operational concerns do not signify real world applicability, nor justify an industry-wide mandate.

Our industry needs to be diligent in directing safety-related resources, leveraging industry investments to result in the greatest potential benefit to highway safety, which is the only way we can hope to achieve the goal of accident and fatality-free highways. Equipping the roughly 3.2 million trailers and semi-trailers pulled by Class 7 and 8 tractors and the overall 35 million commercial trucks (all classes) in the U.S with side and front underride guards will far exceed the \$10 billion the industry currently spends annually on safety.³³ As a result, the Stop Underrides Act would divert a significant amount of NHTSA and industry resources away from important crash avoidance technologies with wide-ranging benefits in all types of

³⁰ (December 21, 2017). *Manufacturers make progress on voluntary commitment to include automatic emergency braking on all new vehicles*. Retrieved from <https://www.nhtsa.gov/press-releases/nhtsa-iihs-announcement-aeb>

³¹ <https://www.congress.gov/bill/116th-congress/house-bill/1511/all-info>.

³² <https://www.congress.gov/bill/116th-congress/senate-bill/665>.

³³ Truck and trailer data from 2017 from ACT Research.

crashes to focus on a narrow type of crash and specific countermeasure unproven in real-world applications. Furthermore, the Government Accountability Office (GAO) recently completed a congressionally mandated report researching this very issue. In the report recommendations, the GAO concluded that “The Administrator of the National Highway Traffic Safety Administration should conduct additional research on side underride guards to better understand the overall effectiveness and cost associated with these guards and, if warranted, develop standards for their implementation.”³⁴

ATA strongly recommends that Congress and Federal Regulators work collaboratively with the industry to incentivize safety investments, allowing motor carrier to make the right investments that provide the greatest overall benefit the safety of our roads, bridges and motoring public. However, misguided and wrongheaded legislative mandates like the Stop Underrides Act ultimately detract from our shared goal of improved safety.

2) **WORKFORCE DEVELOPMENT:**

THE DRIVER SHORTAGE CRISIS:

According to the Council of Economic Advisers, truck drivers are among the top “infrastructure occupations” that will be needed and in increased demand with expanded investments in infrastructure.³⁵ However, as confirmed by the International Brotherhood of Teamsters³⁶ and the Federal Reserve Board,³⁷ the trucking industry is already facing a severe labor shortage.

Specifically:

- In 2017, the industry was short 50,000 drivers, the highest level on record;³⁸
- In July 2018, half of the nation’s twelve Federal Reserve Districts specifically reported trucking capacity and truck driver shortage issues, with many reporting rising freight and manufacturing costs due to the shortage;³⁹
- If current trends hold, the shortage could grow to more than 174,000 by 2026; and⁴⁰
- Over the next decade, the trucking industry will need to hire roughly 890,000 new drivers, taking into account retirement and the industry’s aging workforce (whose average age is 7 years older than that of your typical U.S. worker).⁴¹

This shortage, in turn, threatens to increase the cost of moving freight, and reduce supply chain efficiencies. The driver shortage persists despite the fact that private fleet drivers saw their pay rise to more than \$86,000 from \$73,000—or a gain of nearly 18%—from 2014 to 2017.⁴² Over the same period,

³⁴ (March, 2019). *Truck Underride Guards, Improved Data Collection, Inspection, and Research Needed* (Report No. GAO-19-264). Retrieved from United States Government Accountability Office: <https://www.gao.gov/assets/700/697585.pdf>.

³⁵ The Council of Economic Advisers, “The Economic Benefits and Impacts of Expanded Infrastructure Investment,” March 2018, at 26, <https://www.whitehouse.gov/wp-content/uploads/2018/03/The-Economic-Benefits-and-Impacts-of-Expanded-Infrastructure-Investment.pdf>.

³⁶ U.S. Senate Committee on Commerce, Science, & Transportation Hearing, *Transportation Innovation: Automated Trucks and Our Nation’s Highways*, Sep. 13, 2017, <https://www.commerce.senate.gov/public/index.cfm/hearings?ID=5A988178-CACC-4ADF-8EAC-784DE626B89F>.

³⁷ The Federal Reserve Board, *The Beige Book: Summary of Commentary on Current Economic Conditions by Federal Reserve District*, July 18, 2018, https://www.federalreserve.gov/monetarypolicy/files/BeigeBook_20180718.pdf.

³⁸ American Trucking Associations, *Truck Driver Shortage Analysis 2017*,

<http://progressive1.acs.playstream.com/truckline/progressive/ATAs%20Driver%20Shortage%20Report%202017.pdf>.

³⁹ The Federal Reserve Board, *supra* note 3.

⁴⁰ Truck Driver Shortage Analysis 2017, *supra* note 4.

⁴¹ *Id.*

⁴² American Trucking Associations, *UPDATED: New Survey Data Reveals Increases in Driver Compensation*, March 27, 2018, <https://www.trucking.org/article/New-Survey-Data-Reveals-Increases-in-Driver-Compensation>.

the median salary for a truckload driver working a national, irregular route increased to over \$53,000—for an increase of \$7,000 or 15%.⁴³ These significant bumps in pay are in addition to the thousands of dollars in signing bonuses, health insurance, and retirement benefits that most carriers offer to recruit and retain drivers.⁴⁴

BIPARTISAN SUPPORT FOR OCCUPATIONAL LICENSING REFORM:

Given that “truck-driver” was one of the most in-demand jobs in the country with the biggest pay hikes in 2018,⁴⁵ why is the industry still under pressure from a driver shortage standpoint?

With the nation’s unemployment rate hovering at historic lows and demand for freight transportation continuing to peak in our growing e-commerce economy, the trucking industry is not able to replenish its aging workforce with younger workers—due in large part to outdated occupational licensing requirements that disproportionately burden entry-level drivers.

As you may be aware, reforming outdated occupational licensing requirements has been a bipartisan priority of the past two administrations.⁴⁶ In July 2015, President Obama was able to marshal among a wide array of stakeholders and policymakers support for occupational licensing reform, through the issuance of an eye-opening report by his Council of Economic Advisers, the U.S. Department of Treasury’s Office of Economic Policy, and the U.S. Department of Labor.⁴⁷

In summarizing this report, Jason Furman, Chairman of President Obama’s Council of Economic Advisers, described the many ways in which outdated licensing requirements create barriers to labor market entry or lateral mobility, as follows:

[T]here is evidence that some licensing requirements create economic rents for licensed practitioners at the expense of excluded workers and consumers—increasing inefficiency and potentially also increasing inequality. First, the employment barriers created by licensing raise wages for those who are successful in gaining entry to a licensed occupation by restricting employment in the licensed profession and lowering wages for excluded workers. . . . Second, research finds that more restrictive licensing laws lead to higher prices for goods and services, in many cases for lower-income households, *while the quality, health and safety benefits do not always materialize most empirical evidence does not find that stricter licensing requirements improve quality, public safety or health. . . .* Finally, State-specific licensing requirements create barriers to entry for out-of-State licensed practitioners and so reduce mobility across State lines.⁴⁸

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Paul Davidson, The most in demand jobs in 2018 with biggest pay hikes include cashier, truck driver, USA Today, May 22, 2018, <https://www.usatoday.com/story/money/careers/2018/05/22/jobs-biggest-pay-hikes-cashier-delivery-driver/630728002/>.

⁴⁶ Nick Sibilla, “Citing Adam Smith and Milton Friedman, Obama’s Economic Advisors Back Occupational Licensing Reform,” *Forbes*, July 31, 2015, <https://www.forbes.com/sites/instituteforjustice/2015/07/31/citing-adam-smith-and-milton-friedman-obamas-economic-advisors-back-occupational-licensing-reform/#411b2aaf582e>; Jared Meyer, “Trump Doubles Down on Licensing Reform,” *Forbes*, July 31, 2017, <https://www.forbes.com/sites/jaredmeyer/2017/07/31/trump-and-obama-agree-on-licensing/#10d91bf9692d>

⁴⁷ The Council of Economic Advisers, the U.S. Department of Treasury, Office of Economic Policy, and the U.S. Department of Labor, Occupational Licensing: A Framework for Policymakers, July 2015, https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.

⁴⁸ Jason Furman, Chairman, Council of Economic Advisers, *Occupational Licensing and Economic Rents*, The Brookings Institution, Nov. 2, 2015, https://obamawhitehouse.archives.gov/sites/default/files/page/files/20151102_occupational_licensing_and_economic_rents.pdf.

Not surprisingly, there is broad bipartisan support for rolling back these unnecessary barriers that hold back so many Americans, which disproportionately affect African-Americans, Hispanics, military spouses and veterans, returning citizens, and the poor.⁴⁹ In recognition of similar challenges that outdated licensing requirements pose for the transportation and infrastructure workforce, Labor Secretary Alex Acosta has advocated for workforce development reforms to be included in an infrastructure package.⁵⁰ In particular, Secretary Acosta testified in support of occupational licensing reform.⁵¹

OCCUPATIONAL LICENSING REFORM IN THE TRUCKING INDUSTRY:

For the reasons mentioned above, to help alleviate the truck driver shortage and remove unnecessary barriers to entry, ATA supports the following occupational licensing reforms.

- **Give 18, 19, and 20-year-olds the Opportunity to Choose a Career in Trucking:**

First, ATA supports lowering the minimum age requirement for interstate truck driving from 21 to 18—but only for qualified apprentices that satisfy the safety, training, and technology requirements spelled out in the DRIVE Safe Act (H.R. 1374; S. 569 in the 116th Congress) and the new training requirements of the Obama Administration’s Entry Level Driver Training (ELDT) Final Rule. Currently, 48 states and the District of Columbia allow 18-year old CDL holders to drive trucks intrastate without any of these additional training and technology requirements. Many of these 18, 19, and 20 year old intrastate drivers outperform their older counterparts when it comes to critical safety measures such as crash rates. Additionally, our nation’s military allows 18, 19 and 20 year old service members to operate heavy duty machinery, equipment and vehicles—demonstrating that good training makes it possible for the average U.S. sailor (younger than 20 years old) to steer a \$4 billion aircraft carrier.⁵²

Modern-day vehicle safety technologies have advanced by several orders of magnitude since the current minimum age requirement was promulgated decades ago before the advent of the internet. And research has shown that the technologies that would be required by the DRIVE Safe Act and endorsed by the NTSB—technologies such as active braking, collision avoidance, and event recorders—significantly improve safety performance. Meanwhile, 6.4 million Opportunity Youth in this country are neither employed nor in school, even as the nation is short 50,000 truck drivers. An update to the minimum age requirement is well over-due.

- **Eliminate Unnecessary Barriers for Out-of-State Driver Candidates:**

Second, to better connect job-seekers to trucking careers that offer a median salary of \$54,585, health and retirement benefits, in addition to potentially thousands of dollars in signing bonuses, ATA supports efforts to require states to better serve the growing number of truck driver candidates who receive driver training *outside* their state of domicile.

Currently, out-of-state trainees have to travel back and forth to their home state, every time they pass either the CDL knowledge test or skills test—just to obtain the basic occupational licenses necessary to launch their trucking career. This arrangement imposes unnecessary financial burdens on those who can least afford it and exposes them to skill degradation. This problem could be addressed by requiring states receiving federal funds for infrastructure projects to allow such out-of-state trainees to (1) *complete all*

⁴⁹ Matthew D. Mitchell, Occupational Licensing and the Poor and Disadvantaged, The Mercatus Center, Sep. 28, 2017, <https://www.mercatus.org/publications/study-american-capitalism/occupational-licensing-and-poor-and-disadvantaged>.

⁵⁰U.S. Senate Committee on Commerce, Transportation, & Science Hearing, Rebuilding Infrastructure In America: Administration Perspectives, March 14, 2018, <https://www.commerce.senate.gov/public/index.cfm/hearings?ID=D68FC40C-36BC-4319-B96F-CAC99129FE3E>.

⁵¹ *Id.*

⁵² National U.S. Navy Aircraft Carrier Month, 2018, <https://aircraftcarrier.com/wp-content/uploads/2018/10/Talking-Points-2018.pdf>

training, (2) take all necessary tests, and (3) obtain all necessary credentials in the state in which they are receiving training— without having to travel back to their home state.

As the Council of Economic Advisers has noted:

Because [occupational] licenses are largely granted by states (rather than being nationally recognized), licensing inhibits the free flow of licensed workers across state boundaries to better match labor supply to labor demand. *Unless the geographic footprint and skill needs of expanded infrastructure investments match the geographic distribution of currently unemployed infrastructure workers, some reshuffling of workers across state lines may be needed.*⁵³

In the trucking industry, the geographic distribution of currently unemployed truck driver candidates does not match the geographic footprint of federal workforce development investments. Accordingly, individuals aspiring to become truck drivers are crossing state lines to obtain state-of-the-art training from motor carriers that have the support of federal workforce dollars and have been hiring minorities, veterans, apprentices, and other underrepresented populations at industry-leading rates.

To better facilitate and scale this innovative model of workforce development, ATA supports efforts to require states of domicile to (1) accept the results of an applicant's CDL knowledge test administered in another state, and to (2) electronically transmit or deliver by mail the relevant credential – be it a CLP or a CDL – to the applicant without requiring him or her to physically come back to the state of domicile.

- **Eliminate Skills Test Delays for CDL Applicants:**

ATA supports incentivizing states to administer the CDL skills test within 7 days of application or utilizing 3rd party testers. A low unemployment rate and the stigma surrounding blue-collar work makes it difficult enough to recruit drivers into the trucking industry. States that make applicants wait up to two months to take their skills test contributes to this problem by discouraging applicants from following through. It also invites skills erosion.

RELATED WORKFORCE PRIORITIES:

- **Support Efforts to Recruit, Train, and Hire from Non-Traditional Communities:**

A growing number of ATA members recruit drivers from inner cities and teach them life-skills such as budgeting and punctuality. These companies are also industry-leaders in hiring veterans, apprentices, and female drivers. Building on these successes, ATA is exploring a pilot project in Baltimore, MD, to help expand our outreach to urban communities. Several large ATA members are also interested in building career entryways for returning citizens, but there are questions about negligent hiring liability and grant funding.

- **Support Research on the Workforce Impacts of Automated Vehicles:**

ATA supports the commonsense adoption of automated vehicle technology and data-driven efforts to better understand and optimize the potential benefits of this technology for the American workforce. While we recognize that the widespread adoption of these technologies is decades away, ATA supports increased research that will better equip policymakers and regulators with more data to prepare the next generation of American workers for the future of work in trucking and transportation.

⁵³ Council of Economic Advisers, *supra* note 1, at 33 (emphasis added).

3) **INFRASTRUCTURE:**

THE COST OF INACTION:

A well-maintained, reliable and efficient network of highways is crucial to the delivery of the nation's freight and vital to our country's economic and social well-being. However, the road system is rapidly deteriorating, and costs the average motorist nearly \$1,600 a year in higher maintenance and congestion expenses.⁵⁴ Highway congestion also adds nearly \$75 billion to the cost of freight transportation each year.⁵⁵ In 2016, truck drivers sat in traffic for nearly 1.2 billion hours, equivalent to more than 425,000 drivers sitting idle for a year.⁵⁶

These are impacts that serve as a brake on economic growth and job creation nationwide. Madam Chair, a first-world economy cannot survive a third-world infrastructure system. As such, the federal government has a Constitutional responsibility to ensure that the resources are available to address this self-imposed and completely solvable situation. The Commerce Clause does not represent an antiquated 18th century ideal; it is what binds us a nation. *E Pluribus Unum* – out of many, one.

Those who support abandoning or curtailing the federal role in surface transportation improvement do so in contempt of the ideals that have made the United States great. They are willing to put aside centuries of precedent in favor of a wager that 50 states will, at their own behest, take the actions that are necessary to prevent further deterioration of a transportation system that binds us together as one nation and allows our economy to thrive. This is especially problematic for low-population, large-area states, which carry large volumes of interstate traffic that benefit the entire nation, but do not have the population base to fund needed improvements. The trucking industry, the backbone of the economy, will not accept this reckless approach, and Congress and this subcommittee should reject it as well.

Most troubling is the impact of underinvestment on highway safety. In nearly 53 percent of highway fatalities, the condition of the roadway is a contributing factor.⁵⁷ In 2011, nearly 17,000 people died in roadway departure crashes, over 50 percent of the total.⁵⁸ Many of these fatalities result from collisions with roadside objects, such as trees or poles located close to the roadway.

The Highway Trust Fund (HTF), the primary source of federal revenue for highway projects, safety programs and transit investments, is projected to run short of the funds necessary to maintain current spending levels by FY2021.⁵⁹ While an average of approximately \$42 billion per year is expected to be collected from highway users over the next decade, nearly \$60 billion will be required annually to prevent significant reductions in federal aid for critical projects and programs.⁶⁰ It should be noted that a \$60 billion annual average federal investment *still* falls well short of the resources necessary to provide the federal share of the expenditure needed to address the nation's surface transportation safety, maintenance and capacity needs.⁶¹ According to the American Society of Civil Engineers, the U.S. spends less than half of what is necessary to address these needs. As the investment gap continues to grow, so too will the number of deficient bridges, miles of roads in poor condition, number of highway bottlenecks and, most critically, the number of crashes and fatalities attributable to inadequate roadways.

⁵⁴ *Bumpy Road Ahead: America's Roughest Rides and Strategies to make our Roads Smoother*, The Road Information Program, Oct. 2018; *2015 Urban Mobility Scorecard*. Texas Transportation Institute, Aug. 2015.

⁵⁵ *Cost of Congestion to the Trucking Industry: 2018 Update*. American Transportation Research Institute, Oct. 2018.

⁵⁶ *Ibid.*

⁵⁷ *Roadway Safety Guide*. Roadway Safety Foundation, 2014.

⁵⁸ *Ibid.*

⁵⁹ The Budget and Economic Outlook 2019-2029, *January 2019* Congressional Budget Office.

⁶⁰ *Ibid.*

⁶¹ *2015 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance*. USDOT, Dec. 2016; see also *2017 Infrastructure Report Card*. American Society of Civil Engineers, 2017.

While the cost and scale of addressing highway improvement needs is daunting, it is important to note that much of the congestion is focused at a relatively small number of locations. Just 17% of National Highway System (NHS) miles represents 87% of total truck congestion costs nationwide.⁶² Many of these locations are at highway bottlenecks that are identified annually by the American Transportation Research Institute. ATRI recently released its annual freight bottleneck report, which identifies the top 100 truck bottlenecks around the country.⁶³ The Washington, DC area had two major bottlenecks, while Illinois had four. While most of the bottlenecks were in large metropolitan areas, the report found trouble spots even in smaller cities like Baton Rouge, LA, San Bernardino, CA, Birmingham, AL, Chattanooga, TN, and Greenville, SC. ATA's highway funding proposal, described below, would adopt a strategy for funding improvements at these costly choke points.

A recently released report⁶⁴ by the Transportation Research Board (TRB) requested by Congress focused specifically on the current state and future needs of the Interstate Highway System. This critical network binds our nation together and reaps immeasurable economic and national security benefits for the United States. Most importantly, because interstates are far safer than surface roads, since 1967 its construction has prevented nearly a quarter million people from losing their lives in vehicular crashes.⁶⁵ The Interstate Highway System accounts for about one-quarter of all miles traveled by light-duty vehicles and 40 percent of miles traveled by trucks.⁶⁶ The TRB report estimates that conservatively, the state and federal investment necessary to address the Interstate system's maintenance and capacity needs will have to double or triple over today's expenditures in the next 20 years.⁶⁷

THE BUILD AMERICA FUND:

ATA's proposed solution to the highway funding crisis is the Build America Fund. The BAF would be supported with a new 20 cent per gallon fee built into the price of transportation fuels collected at the terminal rack, to be phased in over four years. The fee will be indexed to both inflation and improvements in fuel efficiency, with a five percent annual cap. We estimate that the fee will generate nearly \$340 billion over the first 10 years. It will cost the average passenger vehicle driver just over \$100 per year once fully phased in.⁶⁸

We also support a new fee on hybrid and electric vehicles, which underpay for their use of the highway system or do not contribute at all. We look forward to working with the committee to identify the best approach to achieve that goal.

Under the BAF proposal, the first tranche of revenue generated by the new fee would be transferred to the HTF. Using a FY 2020 baseline, existing HTF programs would be funded at authorized levels sufficient to prevent a reduction in distributed funds, plus an annual increase to account for inflation.

Second, a new National Priorities Program (NPP) would be funded with an annual allocation of \$5 billion, plus an annual increase equivalent to the percentage increase in BAF revenue. Each year, the U.S. Department of Transportation would determine the location of the costliest highway bottlenecks in the nation and publish the list. Criteria could include the number of vehicles; amount of freight; congestion levels; reliability; safety; or, air quality impacts. States with identified bottlenecks could apply to USDOT

⁶² *Ibid.*

⁶³ <https://truckingresearch.org/2019/02/06/atri-2019-truck-bottlenecks/>

⁶⁴ *Renewing the National Commitment to the Interstate Highway System: A Foundation for the Future* (2018). Transportation Research Board, National Academy of Sciences.

⁶⁵ *Ibid.*, p. 2-18

⁶⁶ *Ibid.*, p. 2-10.

⁶⁷ *Ibid.*, p. S-5

⁶⁸ Federal Highway Administration, *Highway Statistics 2016*, Table VM-1. Average light-duty vehicle consumed 522 gallons of fuel.

for project funding grants on a competitive basis. Locations could appear on the list over multiple years until they are addressed.

The funds remaining following the transfer to the HTF and the NPP would be placed into the Local Priorities Program (LPP). Funds would be apportioned to the states according to the same formula established by the Surface Transportation Block Grant Program, including sub-allocation to local agencies. Project eligibility would be the same as the eligibility for the National Highway Freight Program or National Highway Performance Program, for highway projects only.

This approach would give state and local transportation agencies the long-term certainty and revenue stability they need to not only maintain, but also begin to improve their surface transportation systems. They should not be forced to resort to costly, inefficient practices – such as deferred maintenance – necessitated by the unpredictable federal revenue streams that have become all too common since 2008. Furthermore, while transportation investment has long-term benefits that extend beyond the initial construction phase, it is estimated that our proposal would add nearly half a million annual jobs related to construction nationwide, including nearly 2,000 jobs in Washington, D.C. and almost 7,000 jobs in Illinois.⁶⁹

The fuel tax is the most immediate, cost-efficient and conservative mechanism currently available for funding surface transportation projects and programs. Collection costs are less than one percent of revenue.⁷⁰ Our proposal will not add to the federal debt or force states to resort to detrimental financing options that could jeopardize their bond ratings. Unlike other approaches that simply pass the buck to state and local governments by giving them additional “tools” to debt-finance their infrastructure funding shortfalls for the few projects that qualify, the BAF will generate real money that can be utilized for any federal-aid project.

While some have suggested that a fuel tax is regressive, the economic harm of failing to enact our proposal will be far more damaging to motorists. The \$100 per year paid by the average car driver under this proposal pales in comparison with the \$1,600 they are now forced to pay annually due to additional vehicle maintenance, lost time, and wasted fuel that has resulted from underinvestment in our infrastructure. Borrowing billions of dollars each year from China to debt finance the HTF funding gap – a cost imposed on current and future generations of Americans who will be forced to pay the interest – is far more regressive than the modest fee needed to avoid further blowing up our already massive national debt.

Forcing states to resort to tolls by starving them of federal funds is far more regressive than the \$2.00 a week motorists would pay under our proposal. One needs only look to I-66 in Northern Virginia, where tolls average more than \$12.00 per roundtrip and can sometimes exceed \$46.00, to understand the potential impacts on lower- or middle-income Americans.⁷¹ To put this into perspective, even if motorists only paid the average toll, the cost of a 10-mile trip over an eight day period on I-66 would be equivalent to their cost for an entire year under ATA’s BAF proposal for all roads and bridges.

There is a perception that the fuel tax is no longer a viable revenue source due to the availability of electric vehicles and improvements in vehicle fuel efficiency. This notion is belied by the facts. According to the Congressional Budget Office’s latest estimates, revenue from fuel taxes will drop less

⁶⁹ *A Framework for Infrastructure Funding*. American Transportation Research Institute, Nov. 2017.

⁷⁰ *Ibid.*

⁷¹ http://www.66expresslanes.org/documents/66_express_lanes_january_2018_performance_ereport.pdf

than eight percent over the next decade, or about \$3 billion.⁷² A modest increase in the fuel tax, or a new fee on alternative fuel vehicles, can easily recover these lost revenues.

Finally, ATA supports repeal of the federal excise tax (FET) on trucking equipment, provided the revenue it generates for the HTF is replaced. This antiquated 12% sales tax, which was adopted in 1917 to defray the costs of World War I, is a barrier to investment in the cleanest, safest trucks available on the market. In fact, when the FET was first adopted, it was applied to all vehicles, and now is imposed only on heavy trucks. Income from the FET has varied widely, mostly in response to economic conditions. Over the past decade revenue has ranged between \$1.5 billion during the recession year of 2008 and \$4.6 billion in 2015. This variability contributes to mismatches between federal-aid money authorized and revenue available for appropriation. In fact, the first bail-out of the HTF, in 2008, was necessitated largely by an unanticipated drop in FET revenue.

TOLLS:

ATA opposes expansion of Interstate highway tolling authority and highway “asset recycling.” Interstate tolls are a highly inefficient method of funding highways. One study found that converting all Interstate highways into toll roads would cost more than \$55 billion.⁷³ Tolling also forces traffic onto secondary roads, which are weaker and less safe.

Furthermore, tolls distort the business model for companies that rely on Interstate highway traffic for a significant share of their revenue. Motels, restaurants, truck stops and other roadside establishments would be devastated by the imposition of tolls. Often they are the largest employer in rural areas and small towns, and if they are forced to cut back or close down, this could cause ripple effects through surrounding communities. Nor are the effects likely to be confined to the state that imposes the tolls. Indiana, for example, seriously considered statewide Interstate tolls using a federal exemption that allows tolling of replacement or reconstructed bridges. These tolls would have not only severely hurt businesses in Indiana, but also in neighboring states that rely on Indiana highways for freight services.

In addition, tolls present a strong temptation for states to contrive ways to unfairly shift their revenue burdens disproportionately to out-of-state users to whom they are not politically accountable. Rhode Island’s RhodeWorks program is a case in point: the state legislature abused the federal bridge exemption to the general prohibition on tolling federal-aid highways to transform “bridges” like two-lane overpasses into toll facilities, and authorized imposition of tolls *only* on tractor-semitrailers—precisely the vehicles most likely to be engaged in interstate commerce—while excluding passenger cars and heavy trucks such as construction vehicles and dump trucks that are more likely to come from in-state. Other states have expressed interest in similarly extorting the interstate trucking industry. To be clear, the trucking industry is committed to paying its fair share of highway costs. But to treat the industry as a piggy bank to avoid fairly distributing the burden is unacceptable, and that is why ATA is currently challenging the RhodeWorks program in federal court, as an unconstitutional, discriminatory burden on interstate commerce. But Congress should also act to make clear to states that Rhode Island’s cynical exploitation of the bridge exemption undermines the presumption against tolling federally supported roads, and to expressly prohibit states that choose to toll the channels of interstate commerce from doing so in a way that insulates favored in-state users from the impact.

The exceptions to the federal ban on Interstate tolls have evolved over the decades into a confusing, incoherent mess that serve neither state transportation agencies, nor the public, very well. It is time to establish a rational system that protects the public from the negative impacts of tolls. These reforms are

⁷² Congressional Budget Office, *Budget and Economic Outlook: 2019-2029*, January 2019.

⁷³ *Renewing the National Commitment to the Interstate Highway System: A Foundation for the Future* (2018). Transportation Research Board, National Academy of Sciences, p. 6-13.

described in greater detail in ATA's Surface Transportation Reauthorization Priorities document included in the Appendix.

Related to tolls, some have suggested using asset recycling to raise money for infrastructure investment. Asset recycling involves selling or leasing public assets to the private sector. Where asset recycling has been utilized on toll roads in the U.S., toll payers have seen their rates increased, only to subsidize projects with little or no benefit to them. One need only consider the recent 35% increase in truck toll rates on the Indiana Toll Road for an example of these abusive practices. The state gets a single tranche of money for road, broadband, airport and other projects that have no direct benefit for toll road users, while the private operator of the highway reaps the profits for the next six decades. This latest increase is on top of the doubling of toll rates prior to the initial lease in 2006, and subsequent annual increases that have resulted in a greater than 300% increase in truck toll rates over the past 13 years, with little or no benefit to toll road users. ATA is adamantly opposed to these types of forced subsidies. Please note that our position on asset recycling pertains only to the highway sector.

THE TRUCK DRIVER PARKING SHORTAGE:

Research and feedback from carriers and drivers suggest there is a significant shortage of available parking for truck drivers in certain parts of the country. Given the projected growth in demand for trucking services, this problem will likely worsen. There are significant safety benefits from investing in truck parking to ensure that trucks are not parking in unsafe areas due to lack of space.

Funding for truck parking is available to states under the current federal-aid highway program, but truck parking has not been a priority given a shortage of funds for essential highway projects. Therefore, we support the creation of a new discretionary grant program with dedicated funding from the federal-aid highway program for truck parking capital projects.

4) **TRADE:**

TRADE & THE TRUCKING INDUSTRY:

Trucking is the largest mode of freight transportation in the United States; over 70 percent of all freight tonnage is transported by truck, and when trucks are not the primary mode of transportation, other modes often depend on trucks for final delivery.⁷⁴ Nearly everything we buy—from food to clothing to commodities as well as domestically produced goods and imports—has been hauled by truck at least once before ultimately landing in the hands of the consumer. We at ATA like to say that trade is synonymous with trucking because the vitality of the U.S. economy depends on a robust trucking industry to deliver goods throughout the supply chain.

CONGRESSIONAL RATIFICATION OF THE USMCA:

Trucking dominates cross-border freight movements as well. Every single day, there are 33,000 total truck entries along our northern and southern borders hauling more than \$2 billion of goods. To put this in perspective, in 2018, 12.2 million truck crossings moved approximately \$772 billion of goods across our Canadian and Mexican borders.⁷⁵ Trade with our northern and southern neighbors has created or supported tens of thousands of jobs in the United States, with motor carriers, suppliers and shippers, underscoring the benefits of free trade.

⁷⁴ ATA U.S. Freight Transportation Forecast to 2029 (2018); American Trucking Associations. <https://www.atabusinesssolutions.com/ATA-Store/ProductDetails/productid/4012243>

⁷⁵ Trade Moves North America Forward (2019); American Trucking Associations. https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/ATA_NorthAmericanTrade2018.pdf

While the North American Free Trade Agreement has been a tremendous benefit to the trucking industry, the United States-Mexico-Canada Agreement, or USMCA, is a timely, welcome, and necessary update to the incumbent agreement. NAFTA entered into force on January 1, 1994—long before the advent of e-commerce and digital trade. As technology becomes even more integrated into the supply chain, it is imperative that our North American trade framework follows suit. Simply put, a 21st century trade environment necessitates a 21st century trade agreement, and the USMCA is the best vehicle to propel the U.S. trade economy into modernity.

The United States, Mexico and Canada have been transformed by nearly 25 years of tariff-free trade, generating a level of economic integration that has made North America one of the most competitive and successful trading blocs. The uncertainties regarding the future of this vital relationship have a reverberating effect on the trucking industry, as trucks haul 84% of all surface trade with Mexico and 67% of all surface trade with Canada.⁷⁶ The USMCA is not just a trade agreement—it is the foundation of our economic and broader relationship with our strongest allies that supports the livelihoods of the nearly 90,000 people employed in the U.S. trucking industry,⁷⁷ including nearly 60,000 U.S. truck drivers (full-time equivalent),⁷⁸ from truck transported trade. Given that Canada and Mexico are our number 1 and number 2 export markets respectively,⁷⁹ the trucking industry supports ratification of the USMCA to both maintain market access and to ensure the continuity of cross-border trucking operations. Simply put – trade has benefited blue-collar workers in the trucking industry, and we look forward to working with Congress to make USMCA a reality.

TARIFFS:

ATA understands the Administration’s concern that countries like China are not playing by the same set of rules that the U.S. does when it comes to allowing direct foreign investment, access to markets, and stealing proprietary technologies. ATA also appreciates that the Administration would like to tackle these problems to level the playing field for U.S. interests at home and abroad. However, we do have concerns regarding the use of certain tariffs that can adversely affect U.S. business activity without sending a direct message to unscrupulous actors. For example, with regard to the tariffs proposed in the Federal Register on May 17, 2019,⁸⁰ ATA is very concerned that products covered by the 8609.00.00 heading have no domestic alternative for the trucking industry. It is our understanding that included in 8609.00.00 are 53’ containers utilized in domestic U.S. intermodal moves, which have no U.S. supplier. The largest suppliers of 53’ containers are two companies in China. As a result, U.S. logistics providers, including trucking companies, will have no choice but to continue sourcing 53’ containers from Chinese companies and incurring significant costs that they simply cannot avoid. The price of a single container will likely increase by \$3,000 or more as a result of the proposed tariffs.⁸¹

Additionally, in light of Congress’ narrowing timeframe for USMCA consideration, ATA is very concerned about the Administration’s proposal to impose 5% tariffs on Mexico, the U.S.’s third largest trade partner. While ATA agrees that the migrant crisis should be addressed thoughtfully and comprehensively, we believe that this approach could inadvertently undermine U.S. and Mexican efforts to ratify the USMCA. Keeping our borders open for business for free and fair trade is important to our

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ *Top Trading Partners – March 2019: Year-to-Date Exports (2019)*; United States Census Bureau.

<https://www.census.gov/foreign-trade/statistics/highlights/toppartners.html#exports>

⁸⁰ 84 FR 22564 (May 17, 2019).

⁸¹ *Cargo Equipment Back in the Tariff Crosshairs (May 20, 2019)*; JOC. https://www.joc.com/maritime-news/container-lines/cargo-equipment-back-tariff-crosshairs_20190520.html

nation's economy, and is vital for the nearly 90,000 Americans who work in trucking-related jobs supported by cross-border freight movements between the U.S. and Mexico.⁸²

THE CRISIS ALONG THE SOUTHERN BORDER, AND IMPLICATION FOR TRUCKING:

The crisis along the southern border has escalated to the point of unsustainability. A few weeks ago, U.S. Border Patrol agents from El Paso Sector apprehended 1,036 people—the largest group of illegal aliens ever encountered in a single group—and took them into custody.⁸³ While the dedicated men and women of the CBP are doing their best to address the unprecedented influx of family units and unaccompanied children, the situation is overwhelming the resources of CBP and has severely impacted the ability of the Department of Homeland Security to secure the U.S. border and enforce the immigration laws of the United States.

Every day in May 2019, an average of over 4,500 people crossed our border illegally or arrived at ports of entry without documents.⁸⁴ In May of 2017, the average was less than 700 people per day.⁸⁵ According to CBP, the month of May was on pace to be the highest month in crossings in over 12 years and will significantly surpass the record 109,000 in April 2019.⁸⁶

To address the humanitarian and border security crisis, CBP reconfigured its staffing allocation model.⁸⁷ Initially, 545 CBP officers were reassigned from their posts along the southern border to assist the Border Patrol in problematic sectors. As a result, cargo processing and commercial throughput at ports of entry slowed dramatically. We heard reports from ATA members that wait times at certain ports of entry exceeded 11 hours. To mitigate these effects, CBP then transferred 300 officers from the northern border, airports, and seaports to the southern border to partially relieve the 545 officers and enable them to move back to their primary assignments. In May, CBP transferred an additional 186 officers from the northern border, airports, and seaports to supplement the 300 officers who had previously been reassigned to support the Border Patrol. In total, 731 CBP officers were called upon to assist the Border Patrol in their law enforcement functions along the southern border.

Without a solution, the humanitarian and border security crisis will continue to overwhelm CBP's operational capacity at and between ports of entry. The crisis, which has seen hundreds of CBP officers diverted away from trade facilitation duties in order to humanely and efficiently process thousands of asylum claims, has resulted in dramatic spikes in commercial wait times at U.S.-Mexico land border ports of entry. Such disruptions in trade operations translate to increased costs throughout the supply chain and risk damage to the U.S. economy. ATA strongly supports a supplemental appropriation for the current fiscal year to help the Department of Homeland Security confront the current challenge as the Department assesses its long-term workforce needs and strategy.

CONCLUSION:

Chair Norton, Ranking Member Davis, and members of the subcommittee, thank you again for providing ATA with the opportunity to testify before you today. As you recognize in the title of this hearing, the

⁸² *Trade Moves North America Forward (2019)*; American Trucking Associations. https://www.trucking.org/ATA%20Docs/News%20and%20Information/Reports%20Trends%20and%20Statistics/ATA_NorthAmericanTrade2018.pdf

⁸³ *Border Patrol Agents Apprehend Largest Group Ever Encountered (May 30, 2019)*; Department of Homeland Security. <https://www.dhs.gov/news/2019/05/30/border-patrol-agents-apprehend-largest-group-ever-encountered>

⁸⁴ *Background Press Call by Senior Administration Officials on the Crisis at our Southern Border (May 31, 2019)*; Office of the Press Secretary. <https://www.dhs.gov/news/2019/05/30/background-press-call-senior-administration-officials-crisis-our-southern-border>

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ CBP hosted weekly teleconferences with the trade community to share updates about CBP commercial operations at ports of entry along the southern border. Information about CBP's staffing allocation was communicated during these teleconferences.

trucking industry is under pressure, and in many ways at an operational crossroads. Too often our federal government is mired in squabbling about yesterday's problems rather than leading the way to addressing tomorrow. Your leadership toward the challenges of today and the future are vital to our continued economic strength and the families and businesses that benefit from it.

The actions of this subcommittee, Congress and the Administration over the next several months could help steer our great industry towards tremendous advancements in safety, efficiency and productivity. Providing the resources and regulatory framework that will make our fleets safer and more connected. Allowing our industry to meet the growing driver shortage head-on, and recruit a workforce for the next generation of trucking. Preventing the continued decay of our infrastructure and sense of national decline, to return the national sense to that of a "shining city on a hill," where the roads to that city are not scarred by potholes and collapsing bridges. And facilitating free and fair trade that will allow the trucking industry to continue driving the economy.

Alternatively, inaction or misguided action will grind the wheels of the trucking industry and the economy to a screeching halt. Making our roads less safe, ceding our global leadership in freight movement to countries that are making the necessary investments in infrastructure, and failing to improve the well-being and quality of life of our citizens and society.

Our unwavering hope is that Congress and the Administration will now roll up their sleeves, make the tough decisions, and work together to support infrastructure, the economy, and the industry that moves it. ATA and the trucking industry stand ready to work with you on these major issues. Under your leadership and guidance, we believe that the important and necessary steps can and will be taken to facilitate and support the continued movement of our economy.