A bold voice for transportation workers

WRITTEN STATEMENT OF
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BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

"The State of Transportation Infrastructure and Supply Chain Challenges"

February 1, 2023

On behalf of the Transportation Trades Department, AFL-CIO (TTD), and our 37 affiliated unions, I thank Chairman Graves and Ranking Member Larsen for inviting me to testify before the Committee today on the current state of our supply chain. The employees represented by TTD-affiliated unions are on the front lines of these challenges—including the workers directly engaged in freight transportation at railroads and ports and who work in industries that have struggled with the down-economy effects of chokepoints and delays.

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

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

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and their members have worked tirelessly to shore up and improve our transportation network and systems, I'm sad to say there are those who continue to try to blame the workers for supply chain problems.

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

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

Class I Freight Railroads Have Spent Years Undermining Their Workforce and the Quality of their Service and Their Behavior Continues To This Day

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

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

Freight rail is of vital importance to our country's economy. It accounts for around 40% of long-distance ton-miles and hauls one-third of the country's exports.[1] The supply chain challenges that arose from the backlog of ships and containers at ports like the Ports of Los Angeles and Long Beach were due in large part to capacity issues in our freight rail system. Throughout the pandemic, many railroads self-imposed "service embargoes" to limit the freight they would accept from customers.[2] These service embargoes have led to massive backlogs of freight waiting to move by rail, including containers at ports that the railroads were supposed to move.[3]

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

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

Last week, Union Pacific announced that despite these service challenges, or perhaps because of them, they still managed to make a record profit in 2022 of $7 billion, up from $6.5 billion in 2021.[8] CSX and Norfolk Southern (NS) also announced record profits in 2022 of $4.17 billion[9]

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

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

[3] https://www.cnbc.com/2022/07/08/railroad-bottleneck-at-west-coast-ports-reaches-inflection-point.html

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

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

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

[7] Ibid

[8] https://www.up.com/media/releases/4q22-yearend-earnings-nr-230124.htm

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

and $4.8 billion[10] respectively. The current trend in the industry is clear: rail service gets worse, capacity and workforce gets slashed, while the railroads make record profits year after year and the American people and businesses pay the price.

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

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

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

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

Both labor unions and the railroads agree that the first stepping stone to better freight rail service is to hire more workers. It is not physically possible to move the same amount of volume of goods with 30% fewer workers. The railroads claim they are trying to hire more workers but they have not made near enough progress. Employment levels as of December 2022 across all the Class I railroads, except Canadian Pacific (CP), are below their pre-pandemic levels.[13] Most rail crafts are

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

[11] UP: Annual Reports

[12] "I was a customer for a couple decades. Our customers don't really love us." New CSX CEO Joe Hinrichs, September 26th 2022. See New CSX CEO pledges to improve service and company culture - Trains

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

also below their pre-pandemic levels, with maintenance of equipment and stores employees more than 20% below pre-pandemic levels and train and engine transportation employment levels currently 3% below pre-pandemic levels.[14] The one exception is executives, which are 5% above their pre-pandemic levels.[15]

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

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

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

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

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[14] Ibid

[15] Ibid

[16] The Surface Transportation Board started requiring these 4 Class I railroads to report this data in April 2022

[17] For Rail Workers, Anger Persists Over Sick Leave - The New York Times (nytimes.com)

[18] Railroads' workplace attendance policies at the heart of labor dispute : NPR

[19] https://www.kansascity.com/news/business/article268941917.html

[20] In rail strike showdown, death of worker helped stoke anger - The Washington Post

[21] https://ttd.org/policy/getting-our-nations-freight-rail-system-back-on-track/

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

To Meet Demand in the Trucking Workforce, We Must Ensure that Trucking Jobs are Good Jobs

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

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

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

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

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

[22] https://ttd.org/policy/policy-statements/the-shortchanging-of-labor/
[23] https://www.trucking.org/news-insights/truth-about-trucking-turnover

Keys to Developing a Healthy Supply Chain in the Longshore and Maritime Sector

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

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

Transportation Labor believes the key to developing a healthy supply chain is the continued application of the Jones Act to the movement of waterborne commerce in the domestic trades and the greater utilization of U.S.-flagged and U.S.-crewed vessels in America's foreign trades. The United States needs greater self-reliance in ocean shipping and must act with urgency to reverse the dangerous dependency on foreign flag vessels to carry more than 98 percent of America's exports and imports. Because our domestic maritime industry has dedicated terminals, equipment, and longstanding partnerships in U.S. ports, Jones Act vessels have been able to deliver goods without the outsized increases in freight rates, disruptions, and service challenges wrought by foreign cargo vessels during the pandemic. Without the Jones Act, domestic waterborne commerce would similarly be controlled by foreign vessels. We've seen the ramifications play out throughout the pandemic as almost all global ocean freight shipping is controlled by foreign companies that have raised prices for American businesses and consumers while threatening our national security and economic competitiveness.

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

The US Aviation Sector Should not be Undermined by Unfair Foreign Practices

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

Strengthen American Manufacturing and Supply Chain Resiliency to Boost our Economic Competitiveness

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

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

[24] https://www.transtats.bts.gov/freight.asp?20=E

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

Long Overdue Investments Made by Congress is Already Making a Significant Difference

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

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

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

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

I also want to highlight the funding in the rural grant program, which is just one part of the IIJA's commitments to rural America and will play a significant role in improving our supply chain in every corner of this country. Smaller communities have some of the greatest needs when it comes to better roads, bridges, and other infrastructure needs. Projects like the I-64 Widening Project in Kent County, Virginia will add a third lane in each direction, widen shoulders, add rumble strips, and add wider and flatter clear zones in each direction of I-64. These investments will improve safety, efficiency, and reliability along what is known as the I-64 Innovation Corridor, supporting access to more than 1 million jobs in the region.

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

Looking Ahead

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

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

TTD thanks the Committee for the opportunity to testify today on the state of our supply chain. We look forward to continuing to work together to foster more resilient freight transportation industries well into the future.