

November XX, 2020

Dear Member of Congress:

On behalf of the more than seventy-five membership organizations, including trade associations, chambers of commerce, housing advocates, agricultural organizations, and municipal advocates, we are writing to request that you support HR 8222, the Infrastructure Expansion Act of 2020. Introduced by your colleague Representative Chris Jacobs (R-NY), this bill will protect scarce federal infrastructure funds imposing the same liability standard on federally-funded New York projects that is found in 49 other states.

Unfortunately, New York remains the only state in the nation to impose absolute liability on construction projects under Labor Law 240/241, a statute known as the “Scaffold Law.” This outdated law holds property owners and contractors fully liable for worksite accidents, regardless of the contributing fault of the worker. To understand the injustice of this law, take for example, that the courts have ruled time and time again that the intoxication of an employee is not a defense for an employer under the statute.

Due to this absurd standard, it costs more to build in New York than anywhere else in the country. Data collected from the Port Authority of New York and New Jersey indicates that the insurance costs on cross-border construction projects are doubled on the New York side. Researchers at the Rockefeller Institute of Government found that for taxpayers, the law results in a cost of more than \$785 million annually. It is estimated that New Yorkers spent more than \$200 million in added costs for the Mario Cuomo (Tappan Zee) Bridge due to additional costs of the statute. The New York City School Construction Authority estimated the law cost them over \$400 million in a three-year period.

Defenders of the Scaffold Law say that it improves worksite safety, but data shows the opposite. A study deemed “practice ready” by the Transportation Research Board of the National Academies of Science, Medicine, and Engineering concluded that the law actually increases both fatal and non-fatal injuries by 670 each year.

With the current unprecedented strain on state and local budgets, the federal government cannot continue to waste valuable infrastructure dollars.

We respectfully request your support.