

Senate Commerce, Science, and Transportation, “The State of Transportation and Critical Infrastructure: Examining the Impact of the COVID-19 Pandemic”

June 3, 2020

Executive Summary

On June 3, 2020, the Senate Commerce, Science, and Transportation Committee held a hearing to discuss the current state of transportation and infrastructure and examine the impact of the COVID-19 pandemic on industry. Chairman Roger Wicker (R-MS) emphasized the dramatic effect COVID-19 has had on the transportation sector and recognized the industry’s frontline critical infrastructure employees. He also championed the innovative research and use of automated vehicle systems and ride-hailing vehicles and said he will continue to focus on the issue moving forward. Ranking Member Maria Cantwell (D-WA) also praised the work of frontline transportation workers, and said the U.S. needs better guidelines to continue moving forward in both the movement of people and in freight capacity/shipping vessels.

Witnesses at the hearing represented various associations and all agreed the COVID-19 crisis has had a deep impact on transportation and infrastructure, and that a national response (including a bold infrastructure package) is crucial to help adapt to the new reality the pandemic has created. Many of the witnesses also noted the importance of the auto industry and the trucking industry in keeping the supply chain intact. Alex Oehler, Interim President and CEO of the Interstate Natural Gas Association of America emphasized natural gas’s importance in households across the U.S., and said he encourages pipeline reauthorizations to continue after the pandemic ends.

Democrats on the committee talked about the safety of the workforce, including access to personal protective equipment (PPE) and testing, as well as the impact of limiting liability protections. They also discussed their support for state and local government funding and criticized the administration’s national testing strategy. Senator Mike Lee (R-UT) talked about his frustrations with the Jones Act, and said it damages oil and gas markets, increases the U.S.’ reliance on foreign adversaries, and hurts American businesses and consumers. Overall, members on the committee appeared supportive of an upcoming infrastructure package and expressed concern about the potential impact COVID-19 will have on the supply chain, especially in their respective states. Members also expressed bipartisan support for Wicker and Cantwell’s bill on critical employee protections.

Member Statements

Chairman Roger Wicker (R-MS)

The committee hearing will cover surface transportation and the effect of the pandemic. We are grateful for the frontline workers that have shown resilience to help deliver supplies to healthcare workers. The Ranking Member and I introduced the Critical Infrastructure Employee Protection Act to provide support for our frontline critical infrastructure employees. The bill would instruct the Department of Transportation (DOT) to coordinate with the CDC and FEMA to support state and local government employees.

COVID-19 has had dramatic effects on the transportation sector. U.S. rail traffic has seen some of the weakest levels since the Great Recession. Automotive production has reached its lowest level since WWII. In the face of adversity, our network and workers have persevered. Some automakers have been manufacturing ventilators. Freight railroads have prioritized the movement of essential materials for manufacturers to produce protective equipment.

The transportation sector has also embraced technology. We have seen the use of automated vehicle systems and ride-hailing vehicles to deliver food, supplies, and testing equipment to healthcare workers. The USDOT has worked to support the sector through emergency actions, stakeholder guidance, and regulatory relief. The CARES Act provided help to Amtrak, aviation, and transit, and also included language to give states flexibility in highway safety grants.

Ranking Member Maria Cantwell (D-WA)

Transportation workers have been critical in getting people to and from work, getting life-saving goods out to hospitals and first responders, and transportation workers have kept food moving throughout the supply system, kitchen tables, and stocked our stores with essential goods. Those workers have put themselves in harm's way on a daily basis to try to keep America running. However, guidelines are crucial and can help us move forward. Our colleagues last month introduced the Critical Infrastructure Employee Protection Act, and I was glad to join the Chairman on this bill, and this would direct the federal government to protect states and prioritize testing and PPE for brave people on the front line. That includes firefighters in my state. One thing that has been left out in PPE funding is firefighters.

I am also pleased to cosponsor the Essential Transportation Employee Safety Act that would require passengers in freight transportation companies to abide by the CDC recommendations for cleaning and PPE.

The transportation sector has been critically impacted and the COVID-19 pandemic has turned our transportation trade into a small impact of what it was before. I believe that if we want to get this right moving forward, having good guidelines, continuing to open the prospects for the movement of people and freight capacity/shipping vessels, and moving forward so commerce can continue. We need to do more to continue to reopen. Previous legislation has focused on aviation, and I am looking forward to hearing about other items, such as broadband, hospitals, housing, and education.

Witness Statements

John Bozzella, President and Chief Executive Officer, Alliance for Automotive Innovation – [Testimony](#)

Randy Guillot, Chairman of the Board, American Trucking Associations – [Testimony](#)

Ian Jefferies, President and Chief Executive Officer, Association of American Railroads – [Testimony](#)

Alex Oehler, Interim President and Chief Executive Officer, Interstate Natural Gas Association of America – [Testimony](#)

Larry Willis, President, Transportation Trades Department, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) – [Testimony](#)

Key Exchanges

Chairman Roger Wicker (R-MS): Do any of you disagree that we need a strong infrastructure bill? No? Then we are unanimous on that. What suggestion do you have about what we can do to further our commitment?

Jefferies: We all mentioned your bill which is great. We also need access to testing and materials, and we need a big, bold infrastructure bill.

Wicker: Can you comment on the supply chain that you mentioned earlier? Is it fair to say that pivoting to doing different things required you to switch to different supply chains, and that meant you no longer bought from your other suppliers?

Bozzella: There was a tremendous increase in demand for certain supplies and so we had to retool and adapt. As we start to resume normal practices, there are liquidity issues in the supply chain that need to be addressed.

Ranking Member Maria Cantwell (D-WA): Mr. Willis, you were speaking about the safety and security of the workforce as we put them back to work. What do we need to do in other sectors to make sure they are safe?

Willis: Access to testing and PPE is important, but my members are telling me that they need to see real requirements for employers to correctly use masks and to follow the CDC guidelines. We have asked DOT and OSHA to step in and impose these requirements, but they have not done so.

Cantwell: Mr. Guillot, do you have any comments on the safety of your workforce, and what specific investments are you looking for in infrastructure?

Guillot: The American Trucking Association has proposed an increase in the fuel sales tax by five cents for each year for the next four years, totaling 20 cents. That would add billions of dollars to the Treasury to use on infrastructure investments. For worker safety, we need the proper equipment for them, but they may not pass through a central terminal.

Sen. Deb Fischer (R-NE): Mr. Jefferies, you mentioned AAR support for the Railroad Retirement Board's request for funding to continue its IT modernization work. Sen. Duckworth and I sent letters to the Senate Appropriations Committee for several years in support of continuing that work. Mr. Jefferies or Mr. Willis, could you describe the impact that modernizing the Railroad Retirement Board's IT system would have on our railroaders?

Jefferies: What we have right now is something akin to the DMV from the 1960s. This would allow them to leap into the 21st century. It would allow them to do more paperwork remotely and it would create more efficiency.

Willis: Making sure members can access accounts and make changes online is absolutely essential.

Fischer: Mr. Guillot, truck driver detention at loading and unloading facilities was an issue even before the pandemic. What were the causes behind the increase in detention at the start of the pandemic and what can we do to address it?

Guillot: We saw a surge in consumer products and so certain facilities saw a surge in unexpected business. We saw headway when we began using electronic login methods. We urge shippers and receivers to work to minimize these delays. Some goods may be more urgent than others and should be treated accordingly.

Sen. Tom Udall (D-NM): If Congress were to consider limiting liability, what safety and consumer protection standards are appropriate?

Bozzella: From our perspective, the limitations should be targeted to concerns relating to COVID-19. We're trying to find the balance between avoiding numerous lawsuits and restarting the economy. Our members have robust and in-depth safety protocols that are built on CDC guidelines.

Guillot: The protections we are referring to are like what Mr. Bozzella mentioned. We want to protect someone who is trying to abide by all of the new guidelines, not a bad actor.

Udall: New analysis has shown that N95 masks offered 96 percent protection against the coronavirus where surgical masks protected against 77 percent. We know essential workers should have access to these, but supplies are limited. Mr. Willis, what should the administration do to help supply these masks so workers can go back to work with confidence?

Willis: By using the Defense Production Act in a better manner, using the buying power of the federal government, and recognizing the fake masks on the market.

Sen. Marsha Blackburn (R-TN): At the Port of Memphis, we are concerned about the chassis issue there and the Federal Maritime Commission Supply Chain Task Force has tried to work on this. Mr. Guillot, what do you know about this?

Guillot: We believe and have been promoting for many years that as the ocean lines get out of the chassis procurement and ownership market that they should get out of it completely and let

the trucking industry come in and service the shippers as necessary. We want free choice but the current environment dictates that ocean lines, even though they are not in the ownership and control of assets in chassis, are still controlling the procurement of them at the expense of motor carriers and the shipping public.

Sen. John Thune (R-SD): Mr. Guillot, can you elaborate on the current challenges faced by the industry when it comes to driver testing and training and how permanency of waivers relating to commercial learner permits could be helpful?

Guillot: During the pandemic, we kept working but our training and testing facilities were shut down. We are asking for exemptions relating to those topics and how we can continue training. We have worked with DOT and FMCSA on these exemptions and we are confident that we can get results.

Thune: Mr. Jefferies, you mentioned that cases among railroad workers have been low thanks to early steps taken by the industry. Has the industry encountered challenges providing PPE to employees?

Jefferies: Early on, the supply chain was stressed but we have made progress on navigating the chain to get the equipment. But that does not mean that will be the case moving forward which is why we support the legislation from the committee.

Thune: What steps is the railroad taking now to ensure adequate testing and PPE is available?

Jefferies: Right now, it is being done by the individual railroads and it's about making sure that pipeline remains intact.

Sen. Mike Lee (R-UT): As you know the oil and gas industry has been hit hard by the pandemic. We also know that during that time America's natural gas companies have been on the front lines working hard to ensure Americans can have energy provided to their homes. There is also a shortage of pipelines in our country in the United States and Puerto Rico. We could solve this problem if we were to allow ships to carry LNG along the U.S. coast. But, of course the Jones Act, which is about to celebrate its 100th birthday (which I believe is 100 too many), is a significant problem here. The Jones Act restricts shipping between U.S. ports to only those

vessels that are U.S. built, flagged, and crude. That might sound fine, but I think it is a bad law. I think it is ridiculous to make the Jones Act apply where there is no Jones Act compliant vessel that is capable of carrying something. As a result of this, U.S. markets have had to turn to other sources, where they would otherwise be able to turn to a U.S. supplier, and in turn, causes us to have to import natural gas from other countries. In an unprecedented economic time, one where Americans are facing job losses and economic challenges, wouldn't it make sense to ensure U.S. oil and gas companies can meet U.S. demand before forcing the U.S. into the arms of geopolitical adversaries like Venezuela and Russia?

Oehler: I agree. Most of us have thought about America's dependence on foreign countries. We are now a leader in energy production. You mention the northeast, and what comes to my mind is the supply basin in Pennsylvania. It is a supply basin creating jobs and has domestic production and has rigorous regulations around that production and transportation. And yet, it is difficult to get new pipeline capacity built, in order for those regions of the country who don't have that supply to take advantage of it, and this forces them to turn to foreign suppliers and even fuel sources that are not as carbon friendly as natural gas is.

Lee: Wouldn't a temporary waiver of the Jones Act allow natural gas companies to be able to better access American markets that are difficult or impossible?

Oehler: On this issue, as an association, we have not looked at it and taken a position on it.

Lee: If we are talking about this narrow area, why on earth would we want to be strengthening regimes in Russia or Venezuela? When we do not even have access to a single Jones Act compliant vessel that could take care of these markets? When we have an abundance of natural gas in this country! Maybe 100 years ago Friday when they passed this ill-fated, ill-conceived legislation written by the devil himself, maybe they had some good ideas. I do not know what they were. But those defending it to this day in these extreme circumstances are being disingenuous, and it is time the American people understand that both American businesses and consumers are harmed.

Willis: I do not agree with you Senator, there is no better way to do that than expanding the Jones Act and celebrating the legislation.

Wicker: How do you see COVID-19 impacting innovative automotive technologies for the future, like autonomous vehicles?

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Bozzella: There is a tremendous amount of innovation as a result of COVID-19. Looking forward, we can see highly automated vehicles that can do contactless delivery. We are already seeing that demonstrated with highly automated vehicle pilots already underway. This committee can focus on creating a federal framework that would allow for more widespread testing and deployment of these vehicles as long as they can be determined to be safer than the vehicles they replace. That is important for the committee and Congress.

Willis: We have been involved in the automated vehicle discussion in front of Congress. I think it is something to talk about, but not get in front of the safety challenges this confronts.