Statement of

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Hearing on

The State of Transportation and Critical Infrastructure:
Examining the Impact of the COVID-19 Pandemic

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Chairman Wicker, Ranking Member Cantwell, and members of the distinguished Committee, thank you for providing the American Trucking Associations (ATA) with the opportunity to testify before you today. My name is Randy Guillot, and I currently serve as the 75th Chairman of the ATA. And, on behalf of the trucking industry, including the approximately 7.4 million men and women employed by trucking in the United States, I am grateful for the opportunity to share how these heroes have risen and responded to the COVID-19 pandemic—and how they're positioned to now lead our nation's economic recovery.

As you know, ATA is an 87-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 Less-than-Truckload 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, 80 percent of our membership is comprised of small-sized carriers, whereas only 2 percent of our membership would be considered large-sized carriers.

Outside of my service as Chairman of the ATA, I am the President of Triple G Express, Inc. and Southeastern Motor Freight, Inc., with more than 33 years of experience working in the trucking industry. These two family-owned-and-operated companies, which date back to 1945 and 1985 respectively, haul mostly intermodal containers primarily servicing the Port of New Orleans, but also operate short-haul dry-vans. Throughout my career, I have worked in all aspects of the business, ranging from sales and driving to dock work and safety.

Before detailing the content of my testimony, I would like to thank and recognize this Committee's leadership and unwavering support in ensuring that America's trucking industry has the federal support it needs to serve our country through the COVID-19 pandemic. Your outreach and partnership are appreciated and valued by the millions of patriotic men and women who work in trucking.

Since the onset of the COVID-19 pandemic, most economic, social, and cultural activity in our country has ground to a halt. But one group hasn't stopped: truckers. America's 3.5 million truck drivers – and the countless men and women who support them, such as technicians, dispatchers and truckstop operators – have kept our country running despite the enormous challenges caused by the pandemic.

Truckers have been the difference between a fully-stocked grocery store and one lined with empty shelves. They're why doctors and nurses have PPE to protect themselves while treating the sick. They're why test kits arrive at hot-spots for use by local officials to mitigate the virus' spread. Perhaps the President of the United States said it best when he recently proclaimed from the South Lawn of the White House: "Thank God for Truckers."

Our industry is proud to do its part to help fellow Americans get through this crisis. What we need—is for government officials at all levels to permit them to do so without unnecessary delay or interruption. As the "essential critical infrastructure worker" designation suggests, it's essential that trucks keep rolling through whatever tough and necessary measures are taken to protect public health.

It's also true that the trucking industry is struggling to cope with serious economic challenges precipitated by the pandemic and public health response efforts. Some trucking companies are busy, like those primarily hauling essential groceries, home delivery, e-commerce and medical supplies. However, many industry sectors have slowed or shuttered for the duration of the pandemic, which means that companies hauling fuel for cars and airlines, food supplies for restaurants, steel and cars for the auto manufacturers, and grain and commodities for agricultural exports have fewer loads to transport.

Safely reopening our economy based on sound science and data will be the ultimate resolution to our economic challenges, and we support the meticulous efforts of public officials to get our nation back to work, balancing safety with the economic and social needs of modern life. And when the economy begins to turn back on, the first step will be repositioning and delivering supplies that fuel commerce and communities, which means the trucking industry will play a critical role as we turn toward recovery. Trucking holds the keys to restarting America's economic engine, and as an industry, we are prepared to meet that challenge.

For the purpose of this hearing, I will focus my testimony on the impact of COVID-19 on the trucking industry, and the steps that this Committee and Congress should consider to ensure that the trucking industry is well positioned to lead the way from response to recovery. Because that's what truckers do—despite the numerous obstacles in our path and the risks posed by the public health crisis—we keep rolling.

ATA looks forward to continued, diligent work with this Committee, and each of the industries testifying before you today. We believe that together we can achieve the legislative and regulatory framework that will best facilitate uninterrupted COVID-19 response and relief efforts, as well as future recovery measures. Ensuring that the essential critical infrastructure workforces have the resources and flexibility to continue to supply the nation with necessary goods and supplies throughout this health crisis and into the recovery phase will help define our country's resiliency and ability to overcome the pandemic.

1. The Impacts of COVID-19 on the Trucking Industry:

➢ The Economic and Supply Chain Impacts of COVID-19 on the Trucking Industry:

The impact of COVID-19 on the trucking industry has been substantial as freight demand has declined significantly since the outbreak of the pandemic. After an initial surge for groceries and other consumer staples to big-box retailers, freight levels have generally fallen since. For example, the spot market, which is where overflow freight goes when shippers have more loads than their contract carriers can handle, fell 54% in April on a year-over-year basis.[1] ATA recently reported that its for-hire truck tonnage index, which is dominated by contract freight, not spot market, fell 12.2% in April from March. This was the largest month-to-month decline since April 1994.[2] In a recent COVID-19 survey conducted by ATA, 85% of nearly 500 fleets said that truck freight levels were somewhat or much lower than would be expected during this time of year. In fact, 62% said freight was "much" lower.

This big drop in freight has many implications for trucking, which is a high-cash flow, low-profit industry. One of the major supply chain impacts we see is how less freight throws carriers' networks off balance. For example, in normal times, if a carrier has a customer with freight from Indianapolis to Savannah, GA, the carrier will find a customer(s) with freight from or near Savannah back to Indiana. But under these current circumstances, the carrier might still have freight to Savannah—but no return freight for the backhaul. Thus, the carrier is forced to drive long, "deadhead" miles or take a load in the spot market for well below sustainable rates. Either way, this situation puts added financial pressures on fleets.

In ATA's COVID-19 survey, 32% of responding fleets, which equates to roughly 200 carriers, said they were forced to lay off or furlough drivers due to the current coronavirus economic situation. Our data shows that this group released a total of 6,364 drivers. Additionally, data from the Department of Labor

[1] DAT.com
[2] https://www.trucking.org/news-insights/ata-truck-tonnage-index-plunged-122-april

showed that payrolls for the for-hire trucking industry fell by 88,000 in April. ATA's Economics Department estimates that 65,000 of those were truck drivers.

Outside of these challenges to freight networks, the transportation portion of supply chains seem to be faring relatively well. In the ATA-conducted COVID-19 survey, only 18% of the nearly 600 responding fleets indicated that they had at least one driver infected with the virus. Truck drivers, due to their line of work, are accustomed to social distancing during normal times. While we continue to cautiously assess, at this point we do not foresee any supply-chain breakdowns because of illness among trucking companies.

Moving forward, we expect the trucking industry will continue to deliver freight as it has been under COVID-19, and that supply chains will hold strong, thanks to the fortitude of the trucking workforce. However, should the steep economic downturn continue its slide into June and July—when funds from the Paycheck Protection Program (PPP) run out for many smaller fleets—we could see an increasing number of motor carriers forced to close down. This would noticeably impact supply chains as the economy labors to restart. It could create a situation where, at least temporarily, the number of loads outnumbers the number of drivers and equipment available to haul them.

➢ The Operational Impacts of COVID-19 on the Trucking Industry:

Since the onset of the COVID-19 pandemic, ATA's member companies have been forced to react to many state and local restrictions, which, while well-intentioned, have negatively impacted fleets' ability to operate efficiently. Specifically, the closure of state-run facilities, such as rest areas and service plazas, had a serious impact on the health and wellness of truck drivers transporting freight in response to COVID-19. For example, in Pennsylvania, both rest areas and service plazas closed across the entire state, just days into the pandemic. Truck drivers were suddenly left with few options when searching for a place to park and rest, use restroom facilities or find something to eat—all while delivering critical goods that keep our communities safe and fed. Truck parking options on a normal day are scarce, and the closing of these state-run facilities at a time of heightened urgency for freight deliveries was a devastating blow. Shortly after the sudden closing of these facilities, ATA educated Pennsylvania policymakers on the serious impact of their decision. The result was the reopening of a limited number of rest areas and service centers across the state.

Like other critical infrastructure workers, ATA's member companies have struggled to obtain non-medical grade personal protective equipment (PPE), so that their drivers can reduce their exposure to COVID-19 while ensuring the supply chain remains intact. Several states have required "face coverings" when in public, and truck drivers are not exempt from these requirements. In light of these requirements, ATA was able to obtain over 100,000 face coverings and distributed those masks to various trucking companies and trucking associations throughout the country.

Additionally, the ability for drivers to refill their personal hand sanitizer bottles was critical. Through a partnership with Protective Insurance and a custom distillery, Hotel Tango of Indianapolis, 550 gallons of hand sanitizer was distributed to 10 different truck stop and truck companies throughout the country. The hand sanitizer was transported via ATA member companies to these various locations. ATA is currently in the process of procuring additional hand sanitizer to be distributed throughout the country. By distributing these supplies to several public facilities, all truck drivers have access to these supplies.

- **The Trucking Industry's Collaborations with the Department of Transportation (DOT) in Responding to the Pandemic:**

Since the onset of COVID-19, ATA collaborated closely with the U.S. DOT/FMCSA to ensure drivers providing direct relief in response to COVID-19 were afforded the appropriate regulatory relief. The prompt response by U.S. DOT/FMCSA in issuing an emergency declaration that waived Hours of Service (HOS) and other regulations ensured that grocery store shelves remained stocked during the panic buying that ensued during the early days of COVID-19. The collaboration between U.S. DOT/FMCSA and the trucking industry has been unprecedented, with numerous stakeholder conference calls, guidance documents, and countless correspondence when specific situations arose.

ATA appreciates and supports the steps agencies have taken by issuing emergency waivers and declarations. ATA urges caution, however, that any waivers or exemptions are limited in scope and duration, and only apply to those operations providing direct emergency support. As many of these waivers expire in the coming weeks, we encourage federal agencies to continue industry outreach to ensure that drivers—throughout the country—are able to comply with existing regulations, such as renewing a commercial driver's license or medical certificate. While the country takes steps to reopen, our motor carrier members are concerned that in some locations, the ability to comply with regulatory requirements may be hindered due to state and local restrictions. Continued outreach between U.S. DOT/FMCSA and our industry will ensure a smooth transition.

Just as U.S. DOT/FMCSA has acted swiftly to provide regulatory relief during the COVID-19 pandemic, we also applaud their efforts in expeditiously publishing an HOS final rule that will provide targeted flexibility for our industry. As the trucking industry adjusted to the December 2017 implementation of Electronic Logging Devices (ELDs), concerns were raised by varying segments of the industry regarding the need for greater flexibility in commercial motor vehicle operators' HOS. While HOS regulations are designed to provide the framework for the safe and efficient movement of goods, ELD implementation made clear the need to provide drivers an improved ability to adjust to changing road and weather conditions, congestion and sensitive truck loads.

As such, ATA applauds FMCSA's recent publication of an HOS Final Rule, which, in various ways, will give drivers the flexibility necessary to safely and efficiently manage operations. This final rule includes flexibilities to the *existing* HOS regulations that have been in place for several years, including, expansion of the short-haul exemption, changes to the adverse driving conditions exception, changes to the 30-minute rest break requirement, and greater flexibility for how a driver splits their off-duty time in a sleeper berth. ATA filed public comments regarding each of these provisions, which can be located on the public docket.[3] ATA thanks DOT and FMCSA for their thoughtful and thorough rulemaking effort, which included significant stakeholder engagement, to produce a final rule based on science, data and safety. ATA looks forward to the September effective date for this final rule.

With regard to the additional waivers issued by FMCSA related to Commercial Learners Permits and Third Party Testing, we encourage the Agency to consider pursuing permanency of these waivers, which could assist in easing the current delays associated with the testing of drivers who wish to obtain their Commercial Driver's License (CDL). These delays existed prior to COVID-19 and have only been exacerbated by this pandemic. ATA anticipates that the existing backlog of testing appointments will steadily increase in the future and encourages FMCSA to harmonize state licensing procedures, including, for example, state of domicile requirements and Third-Party Testing. FMCSA has mandated that an individual's state of domicile must accept the results of a CDL *skills* test that was administered out-of-state; however, the rule does not require the state of domicile to also accept the results of an out-of-state

[3] https://www.regulations.gov/document?D=FMCSA-2018-0248-8025.

knowledge test. As a result, driver candidates who obtain training out-of-state are required to travel back to their state of domicile to obtain their credentials, creating an unnecessary burden. It has become all the more important to allow trainees to test, train, and receive their relevant credentials—be it a CLP or a CDL—without having to travel back and forth to their state of domicile.

2. Trucking Industry Priorities for COVID-19 Relief and Response Efforts:

➢ Limited Liability Protection Through COVID-19 Relief and Recovery Efforts:

Motor carriers and commercial drivers are crucial to ensuring that the nation remains supplied with essential goods—from food to medical supplies—during the public health crisis. Given the unprecedented nature of this crisis, motor carriers and commercial drivers are, in the course of that essential work, exposing themselves to enhanced risks that are not yet fully understood. While the safety of our drivers, our customers, and those we share the highway with is always paramount for the trucking industry, the fact remains that the risks associated with keeping the nation supplied during the crisis cannot be completely mitigated. In order to ensure motor carriers are not punished for stepping up in the face of the national emergency, and are not dis-incentivized from doing so, Congress should impose reasonable limitations on the liability of motor carriers for these enhanced, crisis-related risks that they cannot fully mitigate. Such protections should be temporary and tailored to the scope of the pandemic response and recovery, and preserve recourse for those harmed by truly bad actors who engage in willful misconduct.

Specifically, Congress should provide motor carriers with protections like those it conferred on certain health care professionals in the CARES Act, where it ensured that they would not be held liable for good-faith efforts to provide care during the crisis. Similarly, Congress should provide that motor carriers will not be held liable if—despite reasonable safety precautions consistent with federal guidelines, and absent willful misconduct or gross negligence—they are alleged to have exposed customers or employees to the coronavirus in the course of serving the nation's supply needs during the crisis.

In addition, as we recognize the central role the trucking industry is playing in seeing the nation through this crisis, I want to make this committee aware of a longer-term problem that has threatened the industry's ongoing ability to cost-effectively move the vast majority of the nation's freight. Motor carriers in recent years have become favored targets of the plaintiffs' bar and third-party litigation financing companies, who treat highway accident litigation as a potential jackpot rather than a means of assessing fault and fairly compensating victims. That trend, in turn, has led to skyrocketing insurance rates that risk putting many carriers out of business, and by raising the cost of shipping takes money out of the pockets of American consumers only to line those of the unscrupulous trial lawyers who seek to profiteer of the trucking industry's efforts to keep the supply chain running.

➢ Enact S.3728, the Critical Infrastructure Employee Protection Act:

The transportation systems sector is one of the 16 critical infrastructure sectors whose assets, systems, and networks are considered so vital that their incapacitation would have a debilitating effect on security, economic stability, public health, and safety.[4] Accordingly, functioning and stable critical infrastructure is imperative as our nation responds to the COVID-19 public health emergency. The Cybersecurity and Infrastructure Security Agency (CISA) identified trucking in its list of essential critical infrastructure

[4] Cybersecurity and Infrastructure Security Agency, "Critical Infrastructure Sectors," https://www.cisa.gov/critical-infrastructure-sectors, 24 March 2020.

workers[5] because our industry helps to maintain the services and functions Americans depend on daily to operate resiliently during the COVID-19 pandemic response.

The trucking industry is proud to serve in this role, and will continue to deliver essential goods and supplies to communities so that our nation can confront and defeat this pandemic. We sincerely appreciate the work of this Committee to ensure that the trucking industry, and other essential critical infrastructure workers in the transportation systems sector, have the resources they need to maintain their essential operations. Specifically, we support the Committee's work on S.3728, the Critical Infrastructure Employee Protection Act. Your thoughtful and timely legislation would require the Secretary of Transportation to support the efforts of State and local governments to provide essential critical infrastructure workers with prioritized access to testing and non-medical grade equipment. Ultimately, this type of investment in our frontline heroes is an investment in our nation's long-term well-being because essential critical infrastructure workers are leading our nation's response and recovery efforts on the ground. Keeping our frontline transportation workers healthy is how we ensure that grocery stores remain stocked, medical supplies remain available in urban and rural communities, and how we maintain critical infrastructure viability.

Accordingly, we applaud the leadership of Chairman Wicker, Ranking Member Cantwell, and Senators Young, Sullivan and Blunt in championing the Critical Infrastructure Employee Protection Act, and look forward to working with the Committee, as well several of the witnesses before you today, to see the bill through to enactment.

- **Provide Detention and Demurrage Fee Relief & Chassis Choice for the Intermodal Trucking Community:**

Despite the economic slowdown caused by the public health crisis, intermodal motor carriers continue to bring products and materials to and from ports around the country. These efforts help deliver critical supplies to frontline health care workers, as well as the myriad materials and products needed to drive nearly every aspect of the country's economic supply chain.

Unfortunately, the current coronavirus outbreak has impacted access to shipping containers, leading to delays outside the control of motor carriers. These trucking companies have been assessed demurrage and detention fees unfairly by ocean carriers and marine terminals in the past, and with the current health crisis affecting operations at ports around the nation, detention and demurrage fees should be prohibited until more normal operations of port and intermodal freight return.

Under current practice, a fee is typically charged if a motor carrier is responsible for a delay of intermodal containers being picked up or delivered. If the motor carrier is the cause of such a delay, this penalty might make sense, since the global supply chain depends on the movement and repositioning of these containers. In many cases, delays result from other factors – such as port or ocean line delays, and the trucking companies are charged for inefficiencies they have no control over. While these practices are unfair in normal times, they are debilitating during this pandemic, which has caused historic disruptions in ocean shipping and port operations. Temporarily prohibitions on these charges against motor carriers will protect a vital American supply chain link and assist the recovery from our economic challenges.

[5] Cybersecurity and Infrastructure Security Agency, "Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response," https://www.cisa.gov/sites/default/files/publications/Version_3.1_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers.pdf, 19 May 2020.

Such a waiver or prohibition will help reduce confusion and disputes between intermodal carriers and the ocean lines, and expedite freight movement at ports and container terminals, thereby allowing critical products and materials to move more quickly during this time of national need.

Recently, the Federal Maritime Commission (FMC) finalized an interpretive rule on Detention and Demurrage. It will take effect after it is published in the Federal Reserve, which we hope will be soon. "Under the new interpretive rule, the commission will consider the extent to which detention and demurrage charges and policies serve their primary purpose of incentivizing the movement of cargo and promoting freight fluidity," the FMC said recently.

The detrimental impacts of COVID-19 makes the FMC interpretive rule on detention and demurrage very timely, because one of the main functions of the rule is to determine if certain detention and demurrage fees are reasonable or support freight fluidity. If they do neither of these, then no fee should apply. It should also bring clarification as to how the ocean carriers and marine terminals provide notice to truckers when their cargo is available for retrieval, clearly defined demurrage and detention policies, and dispute resolution. This increased clarity will help resolve disputes when they arise, and it is through this reasonableness aspect laid out in the interpretive rule that the FMC will be able to better evaluate these disputes when they arise, which they will in different situations around the nation.

Therefore, we encourage the Committee to oversee the implementation of the FMC's interpretive rule, to ensure that motor carriers are not being improperly charged detention and demurrage fees, particularly as a result of impacts from the pandemic. Additionally, should this interpretive rule delay in implementation, we encourage the Committee to provide intermodal motor carriers with detention and demurrage fee relief during the response to and recovery from the pandemic.

A further issue I'd like to raise with the Committee is chassis availability or chassis choice, which has become a much bigger problem at many of our nation's ports and terminals. If intermodal motor carriers are unable to get the chassis they need to move containers to and from ports or if the process for obtaining a chassis is inefficient, then freight fluidity will be affected. For over 10 years, although the ocean carriers have sold their chassis, they still control chassis rules at intermodal facilities to deny trucking companies choice when leasing this essential equipment. Foreign-owned ship lines require U.S. motor carriers to only lease chassis from the steamship line designated chassis providers at a daily rate that is more than double the cost of providing a chassis, which increases costs for the motor carriers. At the same time, steamship lines have negotiated with their designated chassis provider for a daily chassis price when the steamship line pays the bill that is half the cost of providing a chassis. This rebate practice must stop.

The increased cost on the motor carrier is punitive and will lead to increased costs for the consumer. The lack of chassis choice prevents the motor carriers from making decisions on the quality of the equipment. It is important that chassis choice is available at ports and terminals throughout the country.

3. <u>Trucking Industry Priorities for COVID-19 Recovery Legislation:</u>

➢ Create Jobs and Stimulate the Economy While Improving our Nation's Infrastructure:

The COVID-19 pandemic has significantly reduced travel, driving down fuel use and with it, fuel tax collection. In addition, truck and trailer purchases have dropped considerably, reducing the revenue collected through the federal excise tax on equipment.[6] For the week of May 16-22, personal travel was down a seasonally adjusted 30% compared with normal travel, while long-haul truck travel declined 5% and local trucking fleet travel was down 6%.[7] These declines have resulted in similar reductions in fuel consumption, with gasoline purchases down by approximately 30% in May compared with the same period in 2019.[8] While the likely effects on transportation budgets are unclear, ATA estimates that federal and state user fee revenue could be depleted by at least $32 billion over the next year. This does not include losses to states that rely on retail sales tax revenue for their transportation budgets. This loss of revenue will force cancellation of critical transportation projects, putting more than 400,000 people out of work. Furthermore, it will accelerate the insolvency of the federal Highway Trust Fund (HTF), which was previously projected by the Congressional Budget Office to begin to go into the red by FY2021.

ATA supports a short-term infusion of revenue that will allow states to avoid furloughs and to maintain capital investment schedules, saving thousands of jobs. We also urge Congress to avoid delays in reauthorization of the FAST Act, and ensure that the surface transportation program is provided with sufficient long-term revenue to address critical infrastructure deficiencies.

Even before the current crisis, a severe lack of investment has caused the road system to rapidly deteriorate, costing the average motorist nearly $1,600 a year in higher maintenance and congestion expenses.[9] Highway congestion also adds nearly $75 billion to the cost of freight transportation each year.[10] 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.[11] This caused the trucking industry to consume an additional 6.87 billion gallons of fuel in 2016, representing approximately 13% of the industry's fuel consumption, and resulting in 67.3 million metric tons of excess carbon dioxide (CO2) emissions.[12]

The current situation represents the greatest opportunity in decades to make great strides toward addressing these challenges. With traffic down (allowing for more lane closures), unemployment at historic highs, and interest rates and fuel prices at historic lows, now is the perfect time to accelerate transportation projects, not starve them of revenue.

It is challenging to spot silver linings amid a global pandemic, but if there is something working Americans can be grateful for during a lockdown, it's a reprieve from the wretched traffic that's plagued daily commutes for years. But what happens when life returns to a new normal? America's sagging roads and cracking bridges will still be there, causing the bottlenecks and accidents that are the signature of everyday gridlock. Whatever the future holds, it is clear we can no longer rely on yesterday's roads to get us there. What if there was a smart way forward that finds common ground? What if we could jumpstart our economy, putting hundreds of thousands of Americans back to work in good-paying, private sector jobs—without adding another dime to the deficit? What if we could capitalize on this rare moment in the global oil market—paying dividends to working Americans for decades to come? There is. And we can. All that's needed now is the political courage to get there.

President Trump and Speaker Pelosi have made rebuilding roads and bridges a top priority. Leader McConnell has insisted that any infrastructure package be fully paid for. Truckers agree with all three.

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6 Gilroy, Roger, *April Class 8 Orders Reach 25-Year Low, Transport Topics*, May 5, 2020.
Gilroy, Roger, *US Trailer Orders Tumble to All-Time Low in April,* Transport Topics, May 25, 2020.

7 INRIX U.S. National Traffic Volume Synopsis Issue #10 (May 16 – May 22, 2020)

8 Weekly US Product Supplied of Finished Motor Gasoline

9 *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.

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

11 *Ibid.*

12 *Fixing the 12% Case Study: Atlanta, GA.* American Transportation Research Institute, Feb. 2019.

Where pundits see conflict, we see alignment—and the way forward. In one package, infrastructure offers a singular solution to the tangled web of policy challenges woven by COVID-19. It would generate powerful economic stimulus in the near term, providing hundreds of thousands of good-paying, private sector jobs. It would lay a strong foundation for long-term economic growth, strengthening our supply chain and securing America's preeminent position in the global economy. Most importantly, it can be done responsibly—and fully paid for—without adding a dime to the federal deficit.

While the COVID-19 crisis will pass, one of its lasting legacies has already been written. The U.S. has added $3 trillion onto our nation's credit card bill in a matter of weeks. These actions were necessary to prevent a catastrophic economic collapse, but their steep cost will reverberate for many years to come. America's total national debt now tops $25 trillion – another crisis decades in the making. It is a heavy price dropped on our kids and grandkids, which they'll pay throughout their lives in the form of higher taxes and fewer economic opportunities.

Moreover, an infrastructure bill without a dedicated funding stream has no teeth. Without budget certainty over a multi-year window, transportation officials cannot move projects from the planning phase to the construction phase. Ground cannot be broken, jobs are frozen and any progress is bogged down by Congress' annual appropriations cycle. In order to create value, infrastructure has to be funded.

President Reagan twice oversaw increases in the federal fuel tax during his Presidency, and for good reason. It is the most conservative, efficient and viable funding mechanism readily available for infrastructure improvement. That is because the fuel tax is collected at the wholesale level – at what is known as a "terminal rack" – well before it reaches the retail pump. There are roughly 1,300 racks across the country, but collectively they're operated by only about 300 entities.[13] The result is a tried-and-true system that minimizes overhead costs and maximizes efficiency – value – for road users. Ninety-nine cents of every dollar collected flows straight into the Highway Trust Fund.[14] Compare that to alternatives like tolling, where as much as 35 cents of every dollar is squandered on administrative and collection costs.[15]

Yet Congress has not adjusted the fuel tax since 1993. As COVID-19 roils oil markets, the present moment offers an enormous investment opportunity to recoup the economic losses inflicted on our country. As of May 26, the national average price for a gallon of gas is $1.96, compared to nearly $3.00 one year ago.[16] Increasing the federal fuel tax by only a nickel each year, over four years, would generate $340 billion in new revenue over the next decade. A five-cent increase in the fuel tax would cost the average motorist merely an extra 50 cents at the pump each week. Even if a 20-cent increase took effect immediately, motorists today would still be paying 80 cents less on each gallon of gas than they were paying a year ago. More importantly, a well-maintained and responsibly funded surface transportation funding program would create significant savings for motorists by steadily reducing the $1,600 and 54 hours they are currently losing every year as roads and bridges fall deeper into disrepair and no longer meet the needs of 21st century America.

When it comes to funding the roads and bridges that Americans use every day, the trucking industry more than carries its weight—and we're proud of that fact. While trucks account for only four percent of vehicles on our nation's roads, they pay nearly half of all Highway Trust Fund user fees. And truckers are willing to pay more to get this job done. But we're not alone. America's farmers, manufacturers, building trades, steel workers, business and labor leaders all stand in unison behind this national goal. Together we

[13] https://www.irs.gov/pub/irs-utl/tcn_db.pdf
[14] *A Framework for Infrastructure Funding,* American Transportation Research Institute, Nov. 2017.
[15] *Ibid.*
[16] Gasbuddy.com

can rebuild America—faster, better and stronger than ever before. Investing in our nation's failing infrastructure will ensure that we are better equipped to respond to this and future national emergencies. Additionally, investing in infrastructure will provide a direct stimulus into our nation's weakened economy.

We urge Congress to provide an immediate infusion of additional money to states for surface transportation. We believe that approximately $32 billion will be necessary to offset losses from federal and state user fee reductions over the next year. The money should initially come from the General Fund, to be distributed through existing federal-aid programs, and replenished over four years by an immediate 5 cent increase in the federal fuel tax. With additional five cent increases in each of the following three years, sufficient revenue can be generated to ensure long-term funding stability for the Highway Trust Fund.

Enactment of a robust long-term surface transportation reauthorization bill will ensure the solvency of the HTF and give states the certainty they require to make the major investments necessary to address maintenance and congestion needs. Among other funding priorities, ATA recommends direct funding for top freight bottlenecks that will ensure that trucks can deliver goods more swiftly in response to future emergencies. We also recommend the inclusion of H.R.6104, the *Truck Parking Safety Improvement Act*, which makes $755 million available to states for increased truck parking capacity. Finally, ATA supports federal grants of up to $2 million per state for the purpose of creating or upgrading automated permitting systems. While these expenses are eligible under FMCSA's High Priority Innovative Technology Deployment (ITD) Program, this program is over subscribed. While the lack of adequate automated permitting systems in more than half the states creates inefficiencies during normal times, the COVID-19 experience has exposed even more harmful effects during times of crisis.

- **Incentives to Promote Investments in Cleaner, Safer & More Fuel-Efficient Truck & Equipment:**

COVID-19 is placing severe economic strain on trucking fleets and truck and trailer manufacturers due to cash flow uncertainties. As a result, investments in cleaner, more fuel-efficient, and safer trucks and equipment have steeply declined.

New Class 8 heavy-truck orders in April 2020 were the lowest since 1995.[17] The spread of COVID-19 led all four major heavy-duty truck makers to suspend normal production schedules beginning as early as March.[18] Production in 2020 will likely be a 50-60 percent decline in sales below the near-record build rate of 345,000 trucks in 2019.[19] The global Class 8 downturn in 2020 will be worst felt in the U.S. as it often exhibits deeper cyclical troughs.[20] Fleets are delaying ordering trucks until the economic uncertainty over the COVID-19 crisis abates and a significant number of orders scheduled for near-term deliveries have been cancelled due to financial uncertainty and/or lack of freight to haul.

Fleets have also curtailed ordering new trailers due to COVID-19. U.S. trailer orders in April hit an all-time low after heavy cancellations and the industry's rapid reaction to the unprecedented business conditions generated by the economic shutdown.[21] While often overlooked, new trailers typically provide

[17] Gilroy, Roger, "April Class 8 Orders Reach 25-Year Low", *Transport Topics*, May 5, 2020.
[18] Hitch, John, "Pandemic's Impact on Current Truck Production", *Fleet Owner*, April 7, 2020.
[19] "COVID-19 Will Further Slow Demand for Heavy Trucks", *S&P Global Ratings*, May 5, 2020.
[20] *Id.*
[21] Gilroy, Roger, "US Trailer Orders Tumble to All-Time Low in April", *Transport Topics*, May 25, 2020.

significant environmental and energy savings benefits as exemplified under the U.S. EPA SmartWay program which helps companies advance freight transportation efficiency. [22]

As the economy looks to recover from COVID-19, fleets must be incentivized to place orders for new, cleaner, safer, and more fuel-efficient equipment. Providing such incentives will result in a direct economic stimulus, certainty for jobs in truck and equipment manufacturing, and improvements to highway safety and fuel efficiency. As Congress considers COVID recovery legislation, relief is sought on these three fronts:

(1) Temporary suspension of non-fuel use taxes for the trucking industry;
(2) Establishment of an immediate freight truck stimulus package; and
(3) Short-term financial incentives to kick-start the purchase of new U.S. manufactured trailers.

<u>A Temporary Suspension of Non-Fuel Use Taxes:</u>
Non-fuel federal use taxes cost the trucking industry more than $6 billion annually.[23] These taxes include the 12 percent federal excise tax (FET) assessed on new truck and trailer purchases, an antiquated tax on trucks and equipment adopted in 1917 as a World War I revenue source, which remains the highest excise tax imposed by the federal government on any product or service. The FET imposes an average additional $18,000 price tag on a new Class-8 truck (assuming an average purchase price of $150,000) and close to a $4,000 up-charge on a new 53-foot box trailer (assuming an average purchase price of $33,000). These excessive tax charges limit the amount of actual physical equipment fleets can afford to purchase. The 97 percent of the nation's trucking companies that are small businesses are especially impacted by these high taxes given that they already operate on razor-thin profit margins.[24] While the permanent elimination of the FET is clearly justified, a temporary suspension of this tax through the end of CY2021 would greatly incentivize carriers to purchase new trucks and trailers, save manufacturing jobs, and put cleaner, safer, more fuel-efficient equipment on the road.

A second non-fuel federal use tax involves the FET assessed on tires that only applies to the trucking industry. It was also imposed to assist in paying for the war effort during World War I. While tires account for two percent of fleet operating expenses, the annual tax burden on the industry is approximately $500 million.[25] A temporary tax holiday through CY2021 for truck tire purchases would save the industry approximately $800 million and go far in the economic recovery efforts of the trucking sector.

The final non-fuel federal use tax is the Heavy Vehicle Use Tax (HVUT), assessed annually on heavy vehicles at a rate of up to $550. Though drivers are still on the road delivering vital supplies and food, they remain subject to a tax burden that places enormous stress on their businesses at the very time when there are agonizing decisions made every day related to equipment and workforce. This tax is especially burdensome because fleets must pay it in a single lump sum, straining company cash flows. Suspending the HVUT through CY2021 would save the trucking industry nearly $2 billion.

<u>Establishment of a Freight Truck Stimulus Package:</u>
To help rebuild and stabilize the trucking sector, creating a freight truck stimulus package under the highly-successful Diesel Emissions Reduction Act (DERA) would throw a lifeline to many trucking fleets

[22] *See*: https://www.epa.gov/smartway.
[23] *See*: https://www.fhwa.dot.gov/policyinformation/statistics/2018/fe210.cfm.

[24] *American Trucking Trends 2019*, American Trucking Associations, July 2019.
[25] See: https://www.fhwa.dot.gov/policyinformation/statistics/2018/fe210.cfm.

seeking to purchase cleaner equipment. DERA has become one of the most cost-effective federal clean air programs for reducing emissions and saving fuel. EPA's most recent estimates indicated that every $1 in federal assistance is met with $3 in non-federal matching funds, including significant investments from the private sector. Furthermore, every federal dollar generates between $5 to $21 in health and economic benefits.

Using DERA to stimulate the economy is not without precedent. EPA received $300 million through the American Recovery and Reinvestment Act (Recovery Act) for clean diesel projects in 2009. These funds expanded the program's ability to establish large-scale projects that could deliver additional reductions through investments in cleaner and more fuel-efficient technologies. This program was also credited with sustaining and creating over 3,000 jobs. Many DERA-related jobs advance green employment opportunities through the development, manufacturing, and installation of clean diesel technologies.

While DERA has made tremendous progress in improving air quality nationwide, annual dollars are stretched thin due to competition for funding between school buses, ports, airports, rail, construction equipment, and trucking. Given that approximately 57 percent of the heavy-duty truck fleet is not equipped with technology meeting the most current emissions standards adopted for model year 2010, and given the expected downturn in new truck purchases into the foreseeable future, developing and funding an on-road freight truck component under the DERA program would be a win-win proposition to jump-start new truck purchases and reduce emissions. ATA therefore supports an additional $250 million in annual DERA funding be appropriated and specifically set aside for new on-road freight vehicle purchases to accelerate fleet turnover rates and to help renew truck manufacturing jobs.

<u>New Trailer Purchase Incentives:</u>
A single 53-foot standard box-type trailer can set a trucking company back $33,000 on average. It is not uncommon for fleets to have trailer to tractor ratios of 3:1, meaning they require three trailers per power unit due to the frequent repositioning of empty, partially loaded, and fully-loaded units. Other trailers designed for specialty hauling operations -- such as tank trucks, flatbeds, refrigerated units, and automobile haulers -- can sometimes cost upwards of $100,000.

Given the economic recovery needed for the pummeled trailer manufacturing industry, ATA proposes a temporary $5,000 federal voucher program for the purchase of new North American manufactured trailers that achieve either a U.S. EPA SmartWay, U.S. EPA Phase 2 Heavy-Truck Greenhouse Gas Rule, or comparable state fuel-efficiency designation through the end of CY2021. Today's new generation trailers are both more fuel-efficient and provide significant associated emission reductions. In fact, emission reductions and associated fuel savings benefits from a new 53-foot trailer can achieve as much as a 10 percent improvement.

In order to inject new life into what used to be a $12+ billion U.S. industry, the establishment of a short-term federal voucher program is critical. Not only will such a program instantly help U.S.-based trailer manufacturers and trucking companies rebound financially, but incentivizing new trailer purchases will help continue the historical progress the trucking industry has made over the last 35 years to advance the nation's energy and clean air goals.

- **Support Workforce Development Initiatives and Invest in Retraining the Unemployed:**

The trucking industry's successful mobilization in response to the COVID-19 emergency demonstrates how critical workforce development is to the economy and our emergency response supply chain. Prior to the COVID-19 emergency, the most recent statistics showed 7.4 million people working in various occupations in the trucking industry, accounting for 1 in 18 jobs in the U.S. "Truck driver" has been reported to be the top job in 29 states.[26]

These are good middle-class careers that do not require the debt that often comes with getting a college degree. The Bureau of Labor Statistics reported a mean salary of $46,850 for truck drivers in a May 2019 report.[27] An industry survey shows the average truck driver makes over $53,000 per year, plus benefits like health insurance, a retirement plan (e.g., 401(k)), and paid time off.[28] A private fleet driver similarly saw pay rise to more than $86,000 from $73,000 or a gain of nearly 18% from 2014.[29] In addition to rising pay, many fleets were offering generous signing bonuses and other expanded benefit packages to attract and keep drivers as recently as February of 2020.

The most recent jobs report, however, showed overall 14.7% unemployment, and labor participation dropping to 60.2% -- the lowest since 1973. While portions of the trucking industry have somewhat weathered the economic storm, according to the BLS May 2020 Report, 88,300 jobs were lost in the for-hire trucking industry in April, or about 6%. That puts overall employment in the for-hire trucking industry at the lowest level since November 2014. Part of the reason for that, as this Committee well knows, is that we depend on our customers to sustain our business -- and, when they hurt so do we.

Prior to the current emergency, there was already a significant need for more truck drivers. In July 2018, half of the nation's twelve Federal Reserve Districts specifically reported trucking capacity and truck driver shortage issues.[30] The industry faced a shortage of more than 60,000 qualified drivers as of 2020, and will need to hire 1.1 million new drivers over the next decade, taking into account retirement and the industry's aging workforce (7 years older than that of your typical U.S. worker). Any further workforce attrition could cripple the industry's ability to effectively and swiftly deliver goods and supplies in a national emergency. Furthermore, there is a major backlog in Commercial Drivers License issuance in many states due to closures of many schools and testing facilities. As a major source of national employment, however, we expect to be a leader in returning Americans to work and have several proposals designed to maximize opportunity for all Americans in this critical industry as the economy recovers.

1. ***H.R.1374/S.569, the DRIVE Safe Act:*** This bipartisan legislation, which is currently cosponsored by over one fourth of the House and one third of the Senate, allows young Americans to become truck drivers -- a good paying job in an industry that badly needs them. Though 49 states currently allow individuals to obtain a commercial driver's license at 18, they remain prohibited from driving in interstate commerce until they are 21. The bill establishes an apprenticeship program to train qualified 18-20 year old CDL holders to safely operate in interstate commerce.

2. ***H.R.5145/S.2858, the Promoting Women in Trucking Workforce Act:*** Through the establishment of a Women of Trucking Advisory Board, we expect to be able to place greater focus on the recruitment, training, and mentorship of women. This will lead to greater industry diversity, while providing another tool to stem the driver shortage.

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

[27] Occupational Employment and Wages, May 2019, 53-3032 Heavy and Tractor-Trailer Truck Drivers, available at **https://www.bls.gov/oes/2019/may/oes533032.htm**

[28] ATA Driver Compensation Study (2017); American Trucking Associations. https://www.atabusinesssolutions.com/ATA-Store/ProductDetails/productid/3852684.

[29] Id.

[30] 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.

3. ***H.R.5118/S.3303, the Promoting Service in Transportation Act:*** This legislation will raise awareness of great career opportunities in the transportation sector. Through enhancing the use of broadcast, digital and print media in public service campaigns, we can ensure that the workforce is available and equipped to respond to emergencies.

4. **Workforce Investment and Opportunities Act (WIOA) Reforms:** Training opportunities will play a critical role in helping the unemployed or underemployed return to work, and Congress should pursue improvements to WIOA, which is up for reauthorization this year, in both the short- and long-terms.

    a. **Improved Payment Efficiency Will Speed Up Training**: Truck driver training schools currently train between 13,000-14,000 Americans each year under WIOA. With many workforce boards temporarily closing due to the COVID-19 pandemic coupled with various accounting requirements, outstanding reimbursements were not timely processed, which delayed entire classes of new drivers. Congress should consider changes to ensure training reimbursements continue in the event of a temporarily closed workforce board.

    b. **Expand WIOA Funding and Ensure Vital Industries Have Access**: In order to ensure opportunities for those who may not be able to return to their prior jobs, ATA believes a one-time infusion of WIOA funds with certain parameters is in order, and that truck driving should be considered a nationally "in-demand" occupation. While some states and local workforce boards include truck driving as an in-demand occupation with access to WIOA funding, many do not. A directive that funds should be prioritized for workforce training for defined critical industries, including trucking, would remedy this disparity. Additionally, during the recovery period, Congress should streamline the intake process at state and local workforce boards to ensure people are being trained swiftly for open jobs.

5. **Ensure Focusing on Safety Does Not Impact Independent Contractor Relationships:** Safety is always paramount for the trucking industry, and many motor carriers rely on independent owner-operators for their businesses and work with them to ensure they are operating safely. Congress should ensure that efforts on the part of a motor carrier to assist an independent owner-operator in maintaining health and safety during the crisis cannot be used as evidence of an employer-employee relationship and resulting liability of the carrier.

These suggestions will help ensure the trucking industry has access to a workforce that is able to support the critical needs of the country as we cover from this crisis.

➢ Provide for the Use of Electronic Shipping Papers:

Both the U.S. Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA) recommend that individuals practice social distancing to slow the spread of COVID-19. Further, it is recommended that drivers, inspectors, shippers, and the entirety of the hazardous materials (hazmat) supply chain avoid touching documents whenever possible to reduce the likelihood of virus transmission. Unfortunately, truck drivers hauling hazmat do not have the option to apply this best practice due to certain federal shipping paper requirements.[31] Specifically, the rigid procedures related to the preparation and retention of shipping papers inadvertently prevent truck drivers

[31] 49 CFR § 172.201 - § 172.205

from taking precautionary measures intended to mitigate the spread of the virus. Transitioning to electronic shipping papers would enable truck drivers, their customers, law enforcement personnel, and first responders to avoid the risks associated with passing hazmat documents back and forth.

We recommend that Congress amend these federal shipping paper requirements to provide truck drivers hauling hazmat with the option to utilize electronic shipping papers. Such an amendment is long overdue, and is especially timely given the current public health emergency. Highway carriers should have the option to utilize electronic shipping papers if they are able to comply with comparable electronic shipping paper regulations governing hazmat transportation by air and rail.

Transitioning to electronic hazmat shipping papers is not simply about leveraging technology for technology's sake. Shippers and carriers, as well as law enforcement officers and first responders, stand to benefit from the efficiencies yielded by electronic shipping documentation.

The current Hazardous Materials Regulations place great emphasis on physical documentation requirements, which, in some cases, can inadvertently endanger law enforcement personnel and first responders—the very individuals these regulations are intended to safeguard. For example, in emergency events involving hazmat highway carriers, first responders need to access shipping papers in order to determine the exact quantities and types of hazardous materials on board. If shipping papers are physically located inside the truck, first responders must put themselves in extreme danger to retrieve them. If first responders and law enforcement do not have access to the vital information contained in shipping papers, they will not have enough information to make informed judgments about how to respond properly and safely.

With an electronic shipping documentation system in place, first responders could access the information remotely, circumvent the risk of entering the vehicle, and respond more rapidly. This concept has already been tested and approved in the air and rail domains, and the trucking industry is hopeful for the opportunity to embrace the safety benefits of electronic shipping papers as well. From a safety standpoint, the rationale for providing highway carriers with the option to transition to electronic shipping papers is clear. Furthermore, electronic shipping papers could also be incorporated into the communication systems that many companies already have in place for increased efficiency and enhanced sharing of hazard information with need-to-know parties. Leveraging technology to improve critical communication between drivers, first responders, and law enforcement during an emergency is a goal that we can all support.

In addition to the safety benefits, using electronic shipping papers is a sensible way for shippers and carriers to reduce their impact on the environment. Electronic hazmat documents are not only a more environmentally-friendly alternative to printed shipping papers, they can also save shippers and carriers the cost of printing and maintaining this paperwork.

For those reasons, we urge the Committee to take the appropriate legislative steps to ensure that the safe, secure, and efficient delivery of hazardous materials does not jeopardize the health and safety of truck drivers, first responders, law enforcement personnel, shippers, and consignees.

CONCLUSION:

Chairman Wicker, Ranking Member Cantwell, and members of the Committee, thank you again for providing me with the opportunity to testify before you today. As you have ascertained from my testimony, the trucking industry have been at the forefront of COVID-19 relief and response efforts, ensuring that food, medical supplies, and household goods are swiftly delivered throughout the country. And trucking is prepared to lead our nation's economic recovery, delivering the goods that will fuel commerce, the supplies that will empower businesses, and the necessities that will nourish our communities.

The leadership and action of this Committee, Congress, and the Administration over the next several months will shape the country's continued response to, and recovery from, the pandemic. Investing in our nation's crumbling infrastructure will both create jobs and provide a direct economic stimulus, while improving our crumbling roads and bridges. Providing limited and narrow liability protections to motor carriers and other industries who have acted in good faith on the front lines of the pandemic will ensure our response and recovery efforts are not assaulted by boundless liability. And, creating a roadmap and framework for our workforce of tomorrow, when the trucking industry will need to hire over one million new drivers just to keep pace with growing demand, will spur an employment resurgence as we emerge from this health crisis.

ATA applauds the efforts of this Committee throughout the COVID-19 response to ensure that America's trucking industry has the federal support it needs to serve our country through this crisis. The trucking industry stands ready to work hand-in-glove with you on continued and future COVID-19-related efforts. Under your leadership and guidance, we believe that the important and necessary steps can and will be taken to help see the trucking industry, and the nation, through these tough times and into a better tomorrow.