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Legislative Review

NATIONAL ASSOCIATION OF
WATERFRONT EMPLOYERS (NAWE)

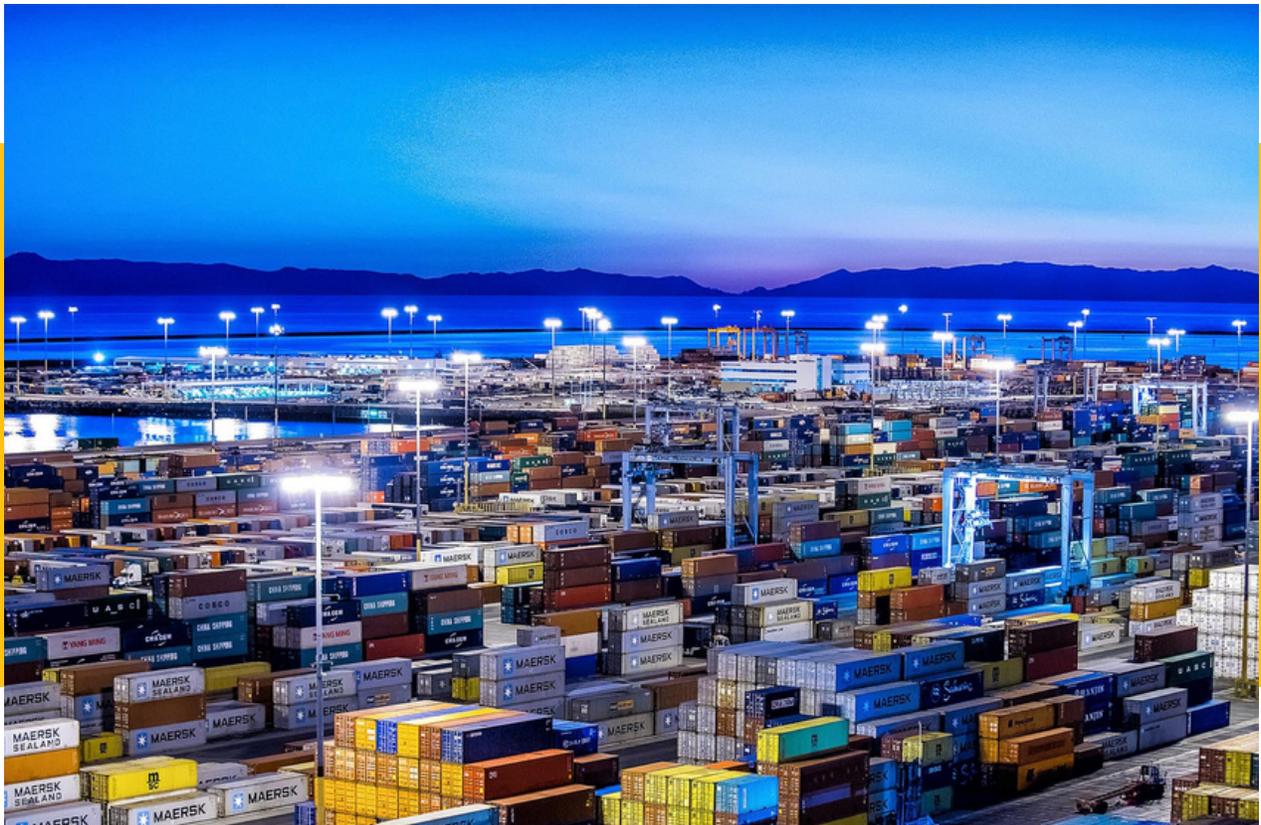




LEGISLATIVE REVIEW 2022

For the second year in a row, marine terminals and stevedoring operations were heavily impacted by outcomes of the pandemic, with volumes rising on all coasts. Every NAWE member remained committed to moving freight trusted to their care as safely and efficiently as possible.

Once again, productivity remained good in the face of sporadic worker shortages, chassis availability issues, distribution warehouse congestion, confusing Federal and State administrative mandates, and restrictive business conditions. While inventories are reported as returning to pre-pandemic levels, consumer buying is not decreasing as quickly as it was thought to have done, resulting in continuing high volumes flowing through ports and terminals.



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FIGURE 1: FROM THE WHITE HOUSE REPORT:

<https://www.whitehouse.gov/briefing-room/blog/2021/11/03/improving-and-tracking-supply-chains-link-by-link/>

Why is a legislative report opening with discussions about a pandemic and consumer buying habits? Supply chain disruptions have been headlined in mainstream media for two years. An internet search lasting 4/10 of a second finds 24M references to supply chain disruption and over 880,000 news articles. The poster child chosen by the media to represent logistics woes is an image of over 100 vessels at anchor outside San Pedro Bay, California. This news hit both Congress and the White House. It became a top priority in 2021 when cargo owners began calling individual Congressional officials asking for help accessing specific containers from marine terminals across the nation. Multiple legislative initiatives flourished, generated by both political parties to respond to the business community's complaints. Ports and terminals spent the year facing more freight volumes than existing facilities, equipment and manpower were intended to handle daily.

Figure 4: Store Shelves Have Recovered to Pre-Pandemic Levels

Real Retail Inventories without Autos in Millions, February 2020-September 2021



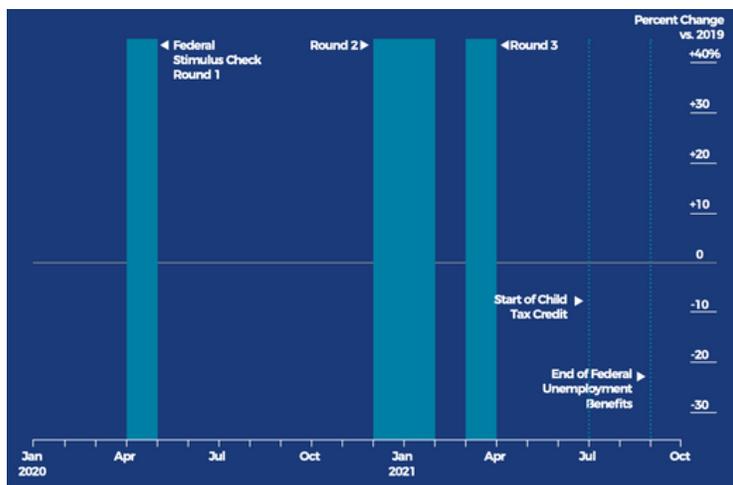
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FIGURE 1: FROM THE BLOOMBERG.COM

From <https://www.bloomberg.com/graphics/2021-us-spending-recovery-inflation/>

This chart shows how spending plummeted in April 2020 then rose with each Federal infusion of stimulus payments. Once payments ceased in October 2021, consumer spending on goods remained 15% above average GDP. This predicts a continuation of supply chain disruption into 2022.



It is important to note that although the Democrats held a solid majority in the House, political parties were evenly split in the Senate, with the Democratic Vice President serving as a tie-breaking vote. Because of this, significant energy was spent by NAWA's team advocating before multiple offices to educate both legislators and senior staff on marine terminal industry issues and needs. Legislative initiative highlights during 2021 include the following (in alpha order):



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CYBERSECURITY

- While Federal investigative agencies visited many coastal port terminals analyzing cargo handling equipment technologies and exploring whether images or sensitive information was being transmitted back to overseas manufacturers, two draft Bills were sent to NAWE for technical input before moving forward: Port Crane Security and Inspection Act of 2021 and the Port Megacrane Act of 2021. The former proposes that TSA repeat the investigations currently underway. In contrast, the latter suggests that should it pass into law; no ship-to-shore cranes would be able to be imported into the USA after that date. As these types of cranes have not been manufactured in the United States since the 1980s, such legislation would be detrimental to the industry

DATA

- The Senate introduced the Facilitating Relief for Efficient Intermodal Gateways to Handle Transportation (FREIGHT) Act was introduced in November 2021 in the Senate. Specifically, the FREIGHT Act would enhance current government oversight of transportation operations, minimize barriers for stakeholders to address unlawful shipping conduct, streamline certification requirements for truck drivers, and incentivize the use of new technologies to improve efficiency. Much of the bill promotes data-related initiatives. NAWE expects this Act to be paired with the Thune/Klobuchar OSRA-related bill in the Senate and move forward.

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INFRASTRUCTURE

- H.R. 3684 The Infrastructure Investment and Jobs Act (IIJA) was passed into law on November 15, 2022. IIJA includes over 25 Federal assistance programs for which port and intermodal connector projects are eligible. It also has a provision to strengthen underride guards on trailers. Should USDOT decide this applies to chassis, it may impact the ability to stack empty chassis in a yard and add enough weight to an over-the-road chassis that the amount of freight within may need to be reduced meet road weight limits. Doing so will increase the number of containers in the future without actually increasing total tonnage throughput. IIJA also established a 5-year appropriation for USDOT's Port Infrastructure Development (PIDG) program at an average level of \$450M annually. Priorities for awarding PIDG funds will include projects that address climate, equity, and/or environmental justice.



SUPPLY CHAIN

- H.R. 4996 Ocean Shipping Reform Act of 2021 (OSRA) was passed in the House late in the year. However, the Senate is putting forward its version known as the Thune/Klobuchar Bill. While this version has addressed some of NAWA's concerns, the bill remains focused on detention and demurrage issues and will impact both ship lines and terminal operations.
- The Maritime Transportation System Emergency Relief Act (MTSERA) was passed into law in December 2020, authorizing the establishment of a program that could reimburse certain public and private maritime industry entities for eleven different operational costs incurred during a declared disaster. NAWA was not successful in securing appropriations for this program during 2021. Behind the scenes, feedback was received that news of record profits within maritime industry entities discouraged federal funding of the program. We will keep trying to secure funding for this program.

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WATERFRONT WORKERS

- H.R. 3114, the Longshore and Harbor Workers' COVID-19 Compensation Act of 2021 (LHWCA), addresses the pandemic as a non-rebuttable workman's compensation case for workers subject to LHWCA. It has an equal number of co-sponsors between the two political parties but did not move forward by the end of the year. NAWE expects this to move forward again early in 2022. Note – this concept has been raised two times since the pandemic began in 2020 and is popular with many Dems.
- The Federal COVID Vaccine Mandate, issued by the White House. This has two elements:
 - A mandate for all workers subject to a federal contract or subcontract to be fully vaccinated (defined as having received two shots) before being eligible to work. Stevedoring and terminal work related to transportation of Federally procured goods and military-related operations are impacted by this mandate.
 - OSHA ETS - A mandate for all employers of 100 workers or more to ensure each worker is fully vaccinated or has received a negative COVID test result within the previous seven days.

Note: Both of the above are subject to multiple court cases and are currently on hold. However, State level OSHA offices can implement their own rules on this issue.

WATERFRONT WORKERS

- With all that activity, Congress could not pass a budget for FY22. Instead, a Continuing Resolution was implemented through February 2022.
- Finally, in response to the unprecedented legislative activity in 2021, NAWE has ramped up advocacy efforts by engaging a Lobbying and Legal Team. Blank Rome Government Relations and Strategies, Becker Political Strategies, and Cozen O'Connor/Legal are on our team. NAWE has also engaged APCO Worldwide, an internationally known public relations firm based in Washington DC, to promote/educate mainstream media and political media about the marine terminal industry and its role in our nation's economy.