

EXAMINING THE POLICIES AND PRIORITIES  
OF THE U.S. DEPARTMENT OF LABOR

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HEARING

BEFORE THE

COMMITTEE ON EDUCATION AND LABOR  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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HEARING HELD IN WASHINGTON, DC, JUNE 9, 2021

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**Serial No. 117-17**

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## EXAMINING THE POLICIES AND PRIORITIES OF THE U.S. DEPARTMENT OF LABOR

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Wednesday, June 9, 2021

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON EDUCATION AND LABOR,  
*Washington, DC.*

The Committee met, pursuant to notice, at 12:01 p.m., via Zoom, Hon. Robert C. “Bobby” Scott (Chairman of the Committee) presiding.

Present: Representatives Scott, Grijalva, Courtney, Sablan, Wilson of Florida, Bonamici, Takano, Adams, DeSaulnier, Norcross, Jayapal, Morelle, Wild, McBath, Hayes, Levin, Stevens, Leger Fernández, Jones, Manning, Mrvan, Bowman, Pocan, Sherrill, Yarmuth, Espaillat, Foxx, Wilson of South Carolina, Walberg, Grothman, Stefanik, Allen, Banks, Fulcher, Keller, Miller-Meeks, Owens, Good, McClain, Spartz, Fitzgerald, Cawthorn, Steel, and Letlow.

Staff present: Ilana Brunner, General Counsel; Daniel Foster, Health and Labor Counsel; Rashage Green, Director of Education Policy; Christian Haines, General Counsel; Rasheedah Hasan, Chief Clerk; Sheila Havenner, Director of Information Technology; Eli Hovland, Policy Associate; Eunice Ikene, Labor Policy Advisor; Ariel Jona, Policy Associate; Andre Lindsay, Policy Associate; Kevin McDermott, Senior Labor Policy Advisor; Richard Miller, Director of Labor Policy; Max Moore, Staff Assistant; Yonatan Moskowitz, Oversight Counsel-Labor; Mariah Mowbray, Clerk/Special Assistant to the Staff Director; Kayla Pennebecker, Staff Assistant; Véronique Pluviose, Staff Director; Banyon Vassar, Deputy Director of Information Technology; Joshua Weisz, Communications Director; Cyrus Artz, Minority Staff Director; Gabriel Bisson, Minority Staff Assistant; Rob Green, Minority Director of Workforce Policy; Taylor Hittle, Minority Professional Staff Member; Amy Raaf Jones, Minority Director of Education and Human Resources Policy; Georgie Littlefair, Minority Legislative Assistant; John Martin, Minority Workforce Policy Counsel; Hannah Matesic, Minority Director of Operations; Audra McGeorge, Minority Communications Director; Jake Middlebrooks, Minority Professional Staff Member; Maureen O’Toole, Minority Press Assistant; Ben Ridder, Minority Professional Staff Member; Mandy Schaumburg, Minority Chief Counsel and Deputy Director of Education Policy; Kelly Tyroler, Minority Professional Staff Member; and John Witherspoon, Minority Professional Staff Member.

Chairman SCOTT. The Committee on Education and Labor will come to order. And welcome everyone. I note that a quorum is

present. The Committee is meeting today to hear testimony on Examining the Policies and Priorities of the U.S. Department of Labor. This is an entirely remote hearing, and all microphones are being kept muted as a general rule to avoid unnecessary background noise.

Members and witnesses will be responsible for unmuting themselves when they're recognized to speak, or when they wish to seek recognition. I'll also ask if Members would please identify themselves before they speak. Members should keep their cameras on while in the proceeding.

Members will be considered present in the proceeding when they're visible on camera and will be considered not present when they are not visible on the camera. The exception to this is if they are experiencing technical difficulties and inform the Committee staff of each such difficulty.

If any Member experiences technical difficulties during the hearing you should stay connected on the platform, make sure you're muted and use your phone to immediately call the Committee's IT director whose number was provided in advance.

Should the Chair experience a technical difficulty and need to step away, Mr. Courtney, Mr. Yarmouth, or any other majority Member is hereby authorized to assume the gavel in the Chair's absence. This is an entirely remote hearing, and as such the Committee's hearing room is officially closed.

Members who wish to sit with their individual devices in the Committee room must wear headphones to avoid feedback, echoes and distortion resulting from more than one person on the software platform sitting in the same room.

Members are also expected to adhere to social distancing, and safe healthcare guidelines, including the use of masks, hand sanitizer and wiping down their areas before and after their presence in the hearing room.

In order to ensure the Committee's five-minute rule is adhered to, the staff will be keeping track of time using the Committee's field timer. The field timer will appear in its own thumbnail picture and will be named 001\_timer. There will be no one minute remaining warning.

The field timer will show a blinking light when the time is up, and Members and the witnesses are asked to wrap up promptly when their time has expired. While roll call is not necessary to establish a quorum in official proceedings conducted remotely, or with remote participation, the Committee has made it a practice wherever there's an official proceeding with remote participation.

I understand that the live feed is having a problem. And so we'll delay for just a minute while it's taken care of.

[Delay.]

Chairman SCOTT. I understand that the live feed is back on, and I will proceed. Members and the witnesses are asked to wrap up promptly when the time is expired. While a roll call is not necessary to establish a quorum in official proceedings conducted remotely, or with remote participation, the Committee has made it a practice whenever there is an official proceeding with remote participation for the Clerk to call the roll to make clear who is present at the start of the proceedings.

Members should say their name before announcing that they are present. This helps the Clerk, and also helps those watching the platform and livestream who may be experiencing a few seconds delay. At this time, I'll ask the Clerk to call the roll.

The CLERK. Mr. Chairman

Chairman SCOTT. Chairman Scott is present.

The CLERK. Mr. Grijalva?

[No response.]

The CLERK. Mr. Courtney?

Mr. COURTNEY. Courtney is present.

The CLERK. Mr. Sablan?

Mr. SABLAN. Sablan is present.

The CLERK. Ms. Wilson?

Ms. WILSON. Ms. Wilson is present.

The CLERK. Ms. Bonamici?

Ms. BONAMICI. Suzanne Bonamici is present.

The CLERK. Mr. Takano?

Mr. TAKANO. Mark Takano is present.

The CLERK. Ms. Adams?

Ms. ADAMS. Ms. Adams is present.

The CLERK. Mr. DeSaulnier?

[No response.]

The CLERK. Mr. Norcross?

Mr. NORCROSS. Norcross is present.

The CLERK. Ms. Jayapal?

Ms. JAYAPAL. Jayapal is present.

The CLERK. Mr. Morelle?

[No response.]

The CLERK. Ms. Wild?

Ms. WILD. Wild is present.

The CLERK. Mrs. McBath?

Mrs. MCBATH. McBath is present.

The CLERK. Mrs. Hayes?

Mrs. HAYES. Mrs. Hayes is present.

The CLERK. Mr. Levin?

[No response.]

The CLERK. Ms. Omar?

[No response.]

The CLERK. Ms. Stevens?

Ms. STEVENS. Stevens is present.

The CLERK. Ms. Leger Fernández?

Ms. LEGER FERNÁNDEZ. Ms. Leger Fernández is present.

The CLERK. Mr. Jones?

Mr. JONES. Mr. Jones is present.

The CLERK. Ms. Manning?

Ms. MANNING. Manning is present.

The CLERK. Mr. Mrvan?

Mr. MRVAN. Mr. Mrvan is present.

The CLERK. Mr. Bowman?

Mr. BOWMAN. Mr. Bowman is present.

The CLERK. Mr. Pocan?

[No response.]

The CLERK. Mr. Castro?

[No response.]

The CLERK. Ms. Sherill?  
 Ms. SHERILL. Sherill's present.  
 The CLERK. Mr. Yarmuth?  
 [No response.]  
 The CLERK. Mr. Espailat?  
 [No response.]  
 The CLERK. Mr. Mfume?  
 [No response.]  
 The CLERK. Ranking Member Foxx?  
 Ms. FOXX. Foxx is present.  
 The CLERK. Mr. Wilson?  
 Mr. WILSON. Wilson is present.  
 The CLERK. Mr. Thompson?  
 [No response.]  
 The CLERK. Mr. Walberg?  
 Mr. WALBERG. Walberg is virtually present.  
 The CLERK. Mr. Grothman?  
 [No response.]  
 The CLERK. Ms. Stefanik?  
 [No response.]  
 The CLERK. Mr. Allen?  
 Mr. ALLEN. Allen's present.  
 The CLERK. Mr. Banks?  
 [No response.]  
 The CLERK. Mr. Comer?  
 [No response.]  
 The CLERK. Mr. Fulcher?  
 Mr. FULCHER. Fulcher is present.  
 The CLERK. Mr. Keller?  
 [No response.]  
 The CLERK. Mr. Murphy?  
 [No response.]  
 The CLERK. Mrs. Miller-Meeks?  
 [No response.]  
 The CLERK. Mr. Owens?  
 Mr. OWENS. Owens present.  
 The CLERK. Mr. Good?  
 [No response.]  
 The CLERK. Mrs. McClain?  
 Mrs. MCCLAIN. McClain is present.  
 The CLERK. Mrs. Harshbarger?  
 [No response.]  
 The CLERK. Mrs. Miller?  
 [No response.]  
 The CLERK. Mrs. Spartz?  
 [No response.]  
 The CLERK. Mr. Scott Fitzgerald?  
 Mr. FITZGERALD. Fitzgerald present.  
 The CLERK. Mr. Cawthorn?  
 [No response.]  
 The CLERK. Mrs. Steel?  
 Mrs. STEEL. Steel is present.  
 The CLERK. Ms. Letlow.  
 Ms. LETLOW. Letlow present.

Mr. POCAN. Can I ask how you have Mr. Pocan recorded?

The CLERK. Mr. Chairman Mr. Pocan is not recorded present.

Mr. POCAN. OK, I'm present.

Mr. GRIJALVA. May I ask how Mr. Grijalva is noted?

The CLERK. Mr. Grijalva is not recorded.

Mr. GRIJALVA. Mr. Grijalva is present.

Chairman SCOTT. Anyone else? If not, thank you. Pursuant to Committee Rule 8(c) opening statements are limited to the Chair and the Ranking Member. This allows us to hear from our witness sooner and provides all Members with adequate time to ask questions. I now recognize myself for the purpose of making an opening statement.

Today we're meeting to discuss the Department of Labor's Budget for Fiscal Year 2022 and to examine the Department's priorities to support workers, job seekers, retirees and their families. I'm going to start by welcoming our distinguished witness, Secretary Marty Walsh to the Committee of Education and Labor.

We're grateful for your time and look forward to discussing your vision on how the Department of Labor can achieve the strong and shared economic recovery. To understand the Department's policies and priorities we must first consider the labor market that you inherited.

For years, the Trump administration made it harder for low-income and middle-class workers to succeed in America. Our corporations made record profits and reaped an overwhelming share of the benefits from the almost two trillion-dollar GOP tax cut. Many workers continue to work long hours and difficult jobs, but still have trouble making ends meet for themselves and their families.

Other policies include the Trump administration's overtime rule, which has stripped millions of middle-class workers of their right to receive overtime. The Trump administration's independent contractor rule, which the Biden administration recently withdrew, would have cost workers an estimated 3 billion dollars every year in lost wages and benefits.

The Trump administration has abandoned the nearly complete infection disease standard when it took office. It was almost complete when the administration came in which would have been a valuable tool for OSHA to better protect workers against COVID-19.

So Secretary Walsh your task is to restore the Labor Department's focus and strengthening workers and their families. And thankfully, the Biden/Harris administration and congressional Democrats have taken decisive steps to turn our economy around and get workers back on their feet.

For example, the Biden administration worked with Congress to enact the American Rescue Plan which provided emergency funding to save our childcare system from collapsing, offered healthcare subsidies to cover the full cost of COVID benefits, so that laid off workers can maintain affordable health coverage during the pandemic, provided emergency financial assistance, including relief checks, the expanded child credit, improved earned income tax credit.

And assistance is projected to cut child poverty in half, and we fully protected the hard-earned pensions of over 1 million Ameri-

cans who were projected to lose those pensions through no fault of their own. Not a single republican supported the package, but it is producing results for workers, businesses, and communities.

The economy has created 2.2 million jobs since the Biden/Harris administration took office. Unfortunately, we still have a lot of work to do to ensure that all workers benefit from the strong economy. Today our economy remains more than 8 million jobs behind where we were at the start of the pandemic.

This is why it is essential that we create millions of good-paying jobs by investing in our infrastructure, and helping workers get the skills and support to fill those jobs. So Mr. Secretary, we look forward to your testimony on how the American Jobs Plan and American Families Plan will make smart investments to build back a better economy to enable workers to get back to work.

And we're interested to know what the budget does for affordable childcare, and to make college degrees more accessible, and how you plan to expand job training at a time when countless businesses are desperate for talented workers, and workers looking for new high-quality careers.

We're also interested in what the budget includes for worker protection agencies, including OSHA, Wage and Hour Division, and Employee Benefits Security Administration, that have faced decades of budget freezes and shrinking staff capacity.

We also want to hear about the policies to reinvigorate the Office of Federal Contract Compliance Programs, and what you will do to prevent worker misclassification, wage theft, and what you will do to expand overtime pay protections.

And finally, we have to address the historic workplace safety crisis caused by the pandemic. In January President Biden signed an executive order that instructed OSHA, Occupational Safety and Health Administration, to consider issuing an emergency temporary workplace safety standard, or an ETS, by March 15.

I understand that you'll give us an update on the status of that standard. So Mr. Secretary thank you for joining us today, and I will now at this time recognize our distinguished Ranking Member for the purpose of her opening statement. Dr. Foxx.

[The statement of Chairman Scott follows:]

STATEMENT OF HON. ROBERT C. "BOBBY" SCOTT, CHAIRMAN,  
COMMITTEE ON EDUCATION AND LABOR

Today, we are meeting to discuss the Department of Labor's budget request for Fiscal Year 2022 and examine the Department's priorities to support workers, job seekers, retirees, and their families.

I want to start by welcoming our distinguished witness, Secretary Marty Walsh, to the Education and Labor Committee. We are grateful for your time and look forward to discussing your vision for how the Labor Department can help achieve a strong and shared economic recovery.

To understand the Department's policies and priorities, we must first consider the labor market that you inherited.

For years, the Trump administration made it harder for low-income and middle-class workers to succeed in America.

While corporations made record profits and reaped an overwhelming share of the benefits from the almost \$2 trillion GOP tax cut, many workers continued to work long hours in difficult jobs and still had trouble making ends meet for themselves and their families.

Other policies include the Trump administration's overtime rule, which has stripped millions of middle-class workers of their right to receive overtime. The Trump administration's Independent Contractor rule—which the Biden administra-

tion recently withdrew—would have cost workers an estimated \$3 billion every year in lost wages and benefits. And the Trump administration abandoned a nearly complete infectious disease standard when it took office. That standard was almost complete when the Administration came in, which would have been a valuable tool for OSHA to better protect workers against COVID-19.

Secretary Walsh, your task is to restore the Labor Department's focus on strengthening workers and their families.

Thankfully, the Biden-Harris Administration and congressional Democrats have taken decisive steps to turn our economy around and get workers back on their feet.

For example, in March, the Administration worked with Congress to enact the American Rescue Plan Act, which provided emergency funding to save our child care system from collapsing, offered health care subsidies to cover the full cost of COBRA premiums so that laid-off workers can maintain affordable health coverage during the pandemic, and provided emergency financial assistance—including relief checks, the expanded Child Tax Credit, and the improved Earned Income Tax Credit—that is projected to cut child poverty in half.

We also fully protected the hard-earned pensions of over one million Americans who were projected to lose those pensions through no fault of their own.

Not a single Republican supported this package, but it is producing results for workers, businesses, and communities. The economy has created 2.2 million jobs since the Biden-Harris Administration took office.

Unfortunately, we still have a lot of work to do to ensure that all workers benefit from a strong recovery. Today, our economy remains more than 8 million jobs behind where we were at the start of the pandemic.

This is why it is essential that we create millions of good-paying jobs by investing in our infrastructure and helping workers get the skills and support to fill those jobs.

Mr. Secretary, we look forward to your testimony on how the American Jobs Plan and American Families Plan would make smart investments to build back a better economy to enable workers to get back to work.

We're interested to know what the budget does for affordable child care and to make college degrees more accessible as well as how you plan to expand job training at a time when countless businesses are desperate for talented workers and workers are looking for new, high-quality careers.

We're also interested in what the budget includes for worker protection agencies, including OSHA, the Wage and Hour Division, and the Employee Benefit Security Administration, which have faced decades of budget freezes and shrinking staff capacity.

We also want to hear about the policies to reinvigorate the Office of Federal Contract Compliance Programs, what you will do to combat worker misclassification and wage theft, and what you will do to expand overtime pay protections.

Finally, we must also address the historic workplace safety crisis caused by the pandemic. In January, President Biden signed an executive order that instructed the Occupational Safety and Health Administration to consider issuing an emergency temporary workplace safety standard, or E-T-S, by March 15.

I understand that you will give us an update on the status of that standard.

Thank you, Mr. Secretary, for joining us today. I will now, at this time, recognize the distinguished Ranking Member for the purpose of her opening statement.

---

Ms. FOXX. Thank you, Mr. Chairman. And I thank the Secretary for being with us today also. A post-pandemic nation requires political leaders who support job creation and stand for all workers interests, not special interest. Workers want to provide for their families and participate in what was, until last year, the most robust and dynamic economy in the world.

Sadly, the Democrat's permanent pandemic status quo continues to inflict severe emotional and financial stress on Americans. People crave a reason to be optimistic about the future. Unfortunately, President Biden's proposed budget, puts Washington's political class ahead of the working class.

The Department of Labor's job killing agenda comes at the worst possible time. Just yesterday the Bureau of Labor Statistics reported that job openings reached a record high of 9.3 million in

April, while hiring lags far beyond. Employers are desperate to fill good-paying jobs, but qualified workers are hard to find.

Earn and Learn models teach valuable skills and allow people to collect a paycheck at the same time. Yet Secretary Walsh shut down a popular industry-led apprenticeship model in one of his first decisions after taking office.

If only DOL's anti-worker agenda stopped there. But that was simply the first wave. The tide of terrible decisions rose higher. Democrats spent trillions of our grandchildren's dollars on so-called stimulus policies. They expected massive growth, instead they're making excuses for one lackluster jobs report after another.

Through their ill-advised and damaging unemployment insurance scheme, Democrats wound up creating an incentive for healthy Americans to stay home. It is not our constituents' fault they're merely taking the better deal. Eight-hour shifts are pointless when one could collect the perversely large unemployment check from the government.

The Democrats ill-conceived spending spree stripped away the dignity that comes from earning a paycheck. The Department of Labor then unleashed an ongoing tsunami, which is obliterating the positive policy initiatives of the Trump administration.

Along with pushing an unnecessary and ill-timed, one size fits all national emergency COVID-19 regulation, supporting socialist healthcare agenda, denying American workers the opportunity to choose when, where and how they work, and infringing on religious liberty, the Biden administration has provoked a strong sense of uncertainty among America's workers and job creators with its job killing agenda.

The Biden regulatory whiplash is manifest in our lethargic economic recovery. Job creators need certainty and flexibility from Federal policymakers. Aggressive and punitive regulatory actions, coupled with competition from the government for worker's paychecks place unsustainable cost on small businesses. Entrepreneurs propel our economy forward by creating jobs, burying these burgeoning businesses in an avalanche of red tape hampers job creation.

But that fact isn't stopping the Biden administration from planning a deluge of detrimental regulations. Perhaps most frustrating to our fellow citizens trying to build a better life for themselves, is the Democrats unabashed union favoritism. Democrats wasted no time gratifying the whims of big labor after taking hold the levers of Federal power.

I'll give them credit; Democrats know how to reward those who butter their bread. The problem is they do so at the expense of American workers and taxpayers. In the first 150 days of the year my colleagues on the other side of the aisle moved legislation to override the democratic will of the people by eliminating states' right-to-work laws and shifting essential privacy protections from workers.

They promoted a \$15.00 minimum wage, a radical proposal the Congressional Budget Office estimates will dump millions of workers in the unemployment line. Democrats continue to take care of big labor with a shameful taxpayer funded pension bailout. The



Democrats radical pro-union Boss's Act initiates government mandated union pickpocketing.

The program skims the tops of worker's wages regardless of whether they choose to be represented by a union and transfers that money into the pockets of union organizers. Stealing from the poor to give to the rich is hardly progressive policymaking.

Democrats trampled on the American workers in their stampede to appease their political allies. And the latest Biden budget continues the betrayal of the working class. It doesn't have to be this way. It shouldn't be this way. We could work together for families.

Republican policies facilitated unprecedented financial success for all Americans before COVID-19 devastated their own economy. The economic hangover created by the pandemic does not have to last forever. We could return to the dynamic growth of 2019 if Democrats acted in bipartisan good faith.

Republicans have effective ideas to lower drug prices off of reskilling opportunity for the workforce, and right now regulatory barriers to entrepreneurial success, but it requires willingness from the Democrats to work across the aisle.

It requires an interest in elevating everyone, not just partisan allies. Secretary Walsh has much to explain today, and I look forward to hearing his testimony. And with that Mr. Chairman I yield back.

[The statement of Ranking Member Foxx follows:]

STATEMENT OF HON. VIRGINIA FOXX, RANKING MEMBER,  
COMMITTEE ON EDUCATION AND LABOR

A post-pandemic nation requires political leaders who support job creation and stand for all workers' interests, not special interests. Workers want to provide for their families and participate in what was until last year the most robust and dynamic economy in the world. Sadly, the Democrats' permanent pandemic status quo continues to inflict severe emotional and financial stress on Americans. People crave a reason to be optimistic about the future.

Unfortunately, President Biden's proposed budget puts Washington's political class ahead of the working class.

The Department of Labor's job-killing agenda comes at the worst possible time. Just yesterday, the Bureau of Labor Statistics reported that job openings reached a record high of 9.3 million in April, while hiring lags far behind. Employers are desperate to fill good-paying jobs, but qualified workers are hard to find. Earn-and-learn models teach valuable skills and allow people to collect a paycheck at the same time. Yet Secretary Walsh shut down a popular industry-led apprenticeship model in one of his first decisions after taking office.

If only DOL's anti-worker agenda stopped there, but that was simply the first wave. The tide of terrible decisions rose higher. Democrats spent trillions of our grandchildren's dollars on so-called stimulus policies. They expected massive growth. Instead, they are making excuses for one lackluster jobs report after another. Through their ill-advised and damaging unemployment insurance scheme, Democrats wound up creating an incentive for healthy Americans to stay home. It is not our constituents' fault. They are merely taking the better deal. Eight-hour shifts are pointless when one can collect a perversely large unemployment check from the government. The Democrat's ill-conceived spending spree stripped away the dignity that comes from earning a paycheck.

The Department of Labor then unleashed an ongoing tsunami which is obliterating the positive policy initiatives of the Trump administration. Along with pushing an unnecessary and ill-timed, one-size-fits-all national "emergency" COVID-19 regulation; supporting a socialist health care agenda; denying American workers the opportunities to choose when, where, and how they work; and infringing on religious liberty, the Biden administration has provoked a strong sense of uncertainty among America's workers and job creators with its job-killing agenda.

The Biden regulatory whiplash is manifest in our lethargic economic recovery. Job creators need certainty and flexibility from Federal policymakers. Aggressive and

punitive regulatory actions, coupled with competition from the government for workers' paychecks, place unsustainable costs on small businesses. Entrepreneurs propel our economy forward by creating jobs. Burying these burgeoning businesses in an avalanche of red tape hampers job creation. But that fact isn't stopping the Biden administration from planning a deluge of detrimental regulations.

Perhaps most frustrating to our fellow citizens trying to build a better life for themselves is the Democrats' unabashed union favoritism. Democrats wasted no time gratifying the whims of Big Labor after taking hold the levers of Federal power. I'll give them credit; House Democrats know how to reward those who butter their bread. The problem is they do so at the expense of American workers. In the first 150 days of the year, my colleagues on the other side of the aisle moved legislation to override the democratic will of the people by eliminating states' right to work laws and stripping essential privacy protections from workers. They promoted a \$15 national minimum wage—a radical proposal the Congressional Budget Office estimates will dump millions of workers in the unemployment line. Democrats continued to take care of Big Labor with a shameful taxpayer-funded pension bailout. The Democrats' radical Pro Union Bosses Act institutes government-mandated union pickpocketing. The PRO Act skims the top off workers' wages regardless of whether they choose to be represented by a union and transfers that money into the pockets of union organizers. Stealing from the poor to give to the rich is hardly progressive policymaking. Democrats trampled on American workers in their stampede to appease their political allies. And the latest Biden budget continues the betrayal of the working class.

It doesn't have to be this way. It shouldn't be this way. We can work together for families. Republican policies facilitated unprecedented financial success for all Americans before COVID-19 devastated the world economy. The economic hangover created by the pandemic does not have to last forever. We could return to the dynamic growth of 2019 if Democrats acted in bipartisan good faith. Republicans have effective ideas to lower drug prices, offer reskilling opportunities for the workforce, and break down regulatory barriers to entrepreneurial success. But it requires willingness from the Democrats to work across the aisle. It requires an interest in elevating everyone, not just partisan allies.

Secretary Walsh has much to explain today, and I look forward to hearing his testimony.

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Chairman SCOTT. Thank you. Without objection all other Members who wish to insert written statements into the record may do so by submitting them to the Committee Clerk electronically in Microsoft Word format by 5 p.m. on June 23, 2021.

It is now my honor to introduce our witness Honorable Marty Walsh who was sworn in as the 29th Secretary of Labor on March 23, 2021. He served as the mayor of Boston, Massachusetts for 7 years before becoming Secretary. Prior to that Secretary Walsh served as a State Representative in Massachusetts and is the President of the Laborer's Local 223 in Boston.

He earned a bachelor's degree from Boston College. And we appreciate the Secretary for participating today and look forward to your testimony. Let me remind you that we have read your written statement, and it will appear in full in the hearing record.

Pursuant to Committee Rule 8(b) and Committee practice, you're asked to limit your oral presentation to about a five-minute summary of your written statement. Before you begin your testimony please remember to unmute your microphone. If you experience technical difficulties during your testimony or later in the hearing you should stay connected to the platform to make sure that you're muted, and use your phone immediately to call the Committee's IT director whose number was provided to you in advance.

After your presentation, we'll move to Member questions. When answering questions please remember to unmute your microphone. You will see the timer that I referred to in my opening statement

on the screen. Secretary Walsh, it's an honor to have you with us today and please proceed with your testimony.

**STATEMENT OF HON. MARTIN J. WALSH, SECRETARY, U.S.  
DEPARTMENT OF LABOR**

Secretary WALSH. Thank you, Chairman Scott and Ranking Member Foxx, Members of the Committee. I'm grateful for this opportunity to outline the Biden/Harris administration's plan for strengthening the Workforce Innovation and Opportunity Act and supporting the critical work of the Department of Labor in the President's fiscal 2022 budget.

Since being sworn in as Secretary of Labor I've been able to meet with working people in businesses throughout this country. American workers have carried us through the pandemic. They've struggled and they've sacrificed. What they want and deserve is access to high-quality good-paying jobs to support their families and build back their communities.

So I really appreciate the opportunity to share our vision for this meeting at this moment. WIOA was a law that was signed into law in 2014 with the goal of modernizing our workforce systems to better reflect the needs of the 21st Century economy. Today we face even greater challenges, so we need transformative solutions like the President has proposed in the American Jobs Plan, The American Families Plan in its fiscal 1922 budget.

That means as Congress considers reauthorization of this law, we have a historic opportunity. We can strengthen WIOA and build on it by integrating the innovation provided in the American Jobs Plan. As Members of the Committee know, the impact of WIOA has been limited by deeply inadequate funding.

The United States spends only 0.1 percent of its gross domestic products on workforce policy, compared to an average of 0.6 percent in other wealthy nations. This deficit leaves in place barriers to opportunity for much of our workforce, especially in marginalized communities, and it's a competitive disadvantage for our economy.

The President recognizes the critical role workforce development plays in strengthening our economy and our competitiveness on the world stage. That's why WIOA proposed historic investment of 100 billion dollars over 10 years in workforce development.

Much of this is planned investment dedicated to building the capacity of our current workforce system. It would support evidence-based programs developed through WIOA funding. Scaling these innovations will help meet the growing needs of employers and bring more workers into well-paying middle class jobs.

The President and I are also deeply committed to the equity in the American workforce. We have made equity a central component of WIOA's recommendations in the full budget. Many communities continue to face systemic racist, and persistent economic inequality. They lack real access to critical job training programs and in demand jobs.

The President is committed to ensuring everyone can get a good paying high-quality job, including women, people of color, people with disabilities, veterans, transitioning service Members and their spouses. That commitment is central to building back better and it's a core goal of the WIOA law.

For these reasons the administration's recommendations focus on four priority areas aligning WIOA with key proposals in the American Jobs Plan, expanding access to high-quality training and service matched to good jobs, improving data, transparency, and accountability to promote equitable outcomes, and integrate workforce education and public assistance systems to reach workers and deliver for regional economies.

I am eager to work with the Committee to fully realize WIOA's potential and truly meet the needs of the 21st Century economy and its workers. At the same time, we also recognize that training is not enough. Training must lead to good quality jobs, jobs that pay family sustaining wages and benefits, jobs with opportunities to create advancement through training and education, jobs with access to paid leave, and the assurance that workers can use their voice and organize to improve pay and working conditions.

That's why the President's budget proposal advances the full mission of the Department of Labor. It not only invests in our workforce system, but it also takes a step to provide the first comprehensive update to the UI system in decades. It calls for the reauthorization of the Trade Adjustment Assistance program, and it protects workers safety, paycheck's rights, and benefits by increasing funding through the Department's enforcement agencies.

I look forward to discussing these proposals with this Committee as well. Under President Biden's leadership we have the opportunity to build back better by building up our ability to serve the working people of America. I look forward to continuing our work together on these issues and other priorities.

And before I end my statement I would just like a minute Mr. Chairman just to let people know OIRA has concluded their review of the ETS. Normally there's a long delay between the conclusion of review and the publication of OSHA standards in the Federal Register, but our team is working to release the ETS on OSHA's website by this time tomorrow, and speed up the release of the specifics.

We know there's lots of interest in the content of this rule, and we want to get more information on it. OSHA has tailored a rule that focuses on healthcare, that science tells us that healthcare workers, particularly those who have come into regular contact with people either suspected of having or being treated for COVID-19 are most at risk.

OSHA has tailored a rule that reflects the reality on the ground. The success of all government vaccination efforts plus the largest guidance from CDC in changing the nature of the pandemic. We also expect to release some updated guidance for general industry which also affects the CDC's latest guidance and tells employers how to protect workers who have not yet been vaccinated.

So with that I'll take questions on that. I look forward to the questions Mr. Chairman.

[The prepared statement of Secretary Walsh follows.]

## PREPARED STATEMENT OF HON. MARTIN J. WALSH

STATEMENT OF  
MARTIN J. WALSH  
SECRETARY OF LABOR  
BEFORE THE  
COMMITTEE ON EDUCATION AND LABOR  
UNITED STATES HOUSE OF REPRESENTATIVES

June 9, 2021

Introduction

Chairman Scott, Ranking Member Foxx, and members of the Committee, thank you for the invitation to testify today. I am pleased to appear before this Committee for the first time as Secretary of Labor, to outline the Biden-Harris Administration's vision for strengthening the Workforce Innovation and Opportunity Act (WIOA) and for supporting the critical work of the Department of Labor in the President's Fiscal Year (FY) 2022 Budget. Since being sworn in as Secretary of Labor in March, I have been privileged to meet virtually and in person, with people throughout this country on what the Labor Department must do to Build Back Better. I appreciate the opportunity to share here with you, our vision for meeting the moment and connecting America's workers and job seekers, particularly those from disadvantaged communities, to high-quality, good-paying jobs.

WIOA was signed into law in 2014 with the goal of transforming and modernizing the public workforce system, to better reflect the needs of the 21st century economy. Our economy and labor market have undergone significant changes since the passage of WIOA. These changes, coupled with the need to respond to the devastating effects of the COVID-19 pandemic, require transformative solutions, such as those offered by the President in the American Jobs Plan (AJP) and the American Families Plan (AFP) and further outlined in the President's Budget. As Congress considers reauthorizing this law, there is a historic opportunity to strengthen and build on the core principles undergirding both WIOA and the President's plans and to incorporate many of the innovations offered in the AJP. I am eager to work with the Committee to fully realize WIOA's potential and truly meet the needs of the 21<sup>st</sup> century economy and its workers.

As the members of the Committee are well aware, the potential impact of our workforce development programs under WIOA has been inhibited by deeply inadequate funding. As a nation, we have repeatedly failed to sufficiently invest in our workforce infrastructure. The United States currently spends only about 0.1 percent of its gross domestic product on workforce policy, compared to an average of 0.6 percent spent by other wealthy nations. This chronic underfunding is a significant barrier to preparing workers to remain competitive in the global economy, and is an impediment to helping workers find high-quality jobs.

The President recognizes the critical role workforce development plays in strengthening our economy and increasing our competitiveness on the world stage. That is why he has proposed a

historic investment of \$100 billion over 10 years in workforce development, much of it dedicated to building the capacity of our current workforce system. These investments in evidence-based innovations in workforce development, many of which were incubated through WIOA funding, will help meet the growing needs of employers and bring more workers into well-paying, middle-class jobs. These programs are complementary to the core functions of the current system, and through the American Jobs Plan, we hope to build on WIOA to continue to scale what works.

The President and I are also deeply committed to equity and have made it a central component of our WIOA recommendations, and the budget overall. Many communities continue to be marginalized as a result of systemic racism and persistent economic inequities, in opportunity as well as access to critical workforce development programs and in-demand jobs, such as those in the growing infrastructure and clean energy economies. The President's commitment to ensuring women, people of color, individuals impacted by the justice system, persons in recovery from mental health and/or substance use disorders, and people with disabilities, among other underrepresented communities, can access and obtain good-paying, high-quality jobs is central to building back better—and is a core goal underlying WIOA.

However, we also recognize that training alone is not enough. Training must lead to good-quality jobs – jobs that pay family-sustaining wages with wage progression, benefits, access to paid leave, opportunities for career advancement through training and education, and an assurance that workers can use their voice to improve pay and working conditions. Without equity and job quality as the foundations of the Department's work, we are left with a structure that perpetuates low-quality jobs; that undermines the economic security of working families; and stalls our economic growth and competitiveness.

That is why, in addition to calling for investments in the workforce system, the President's FY 2022 Budget proposal, takes initial steps to provide the first comprehensive update to the Unemployment Insurance (UI) system in decades; includes new investments to rebuild the Department's capacity to protect workers' rights, benefits, and health and safety; calls for reauthorization of the Trade Adjustment Assistance program; and protect workers' paychecks by increasing funding for the Department's enforcement agencies. I look forward to discussing these proposals more in-depth with the Committee, as well.

#### WIOA

The focus of WIOA reauthorization should be the advancement of strategies that allow workers and job seekers to secure and retain high-quality jobs. The Administration's recommendations focus on four core priority areas: (1) aligning with key proposals outlined in the American Jobs Plan; (2) expanding access to quality training and services aligned to quality jobs; (3) improving data, transparency, and accountability to promote equitable outcomes; and (4) better integrating workforce, education, and public assistance systems to reach and deliver for workers and regional economies.

*Aligning WIOA and the American Jobs Plan*

The Administration sees several areas for potential alignment of WIOA and the workforce proposals outlined in the American Jobs Plan. For example, WIOA encourages states and localities to develop and use sector partnerships; allows local areas to use funding, as appropriate, for subsidized employment for transitional jobs; and authorizes Registered Apprenticeship programs to automatically appear on states' Eligible Training Provider Lists (ETPLs). However, current system funding and structure do not allow workforce grantees to implement these evidence-based strategies at scale and WIOA could go even further to support these activities.

The American Jobs Plan seeks to build on the foundation that WIOA provides, and we encourage the Committee to ensure alignment across WIOA and the American Jobs Plan, wherever possible. This may include using established WIOA definitions or performance metrics in AJP programs, or promoting alignment with complementary initiatives such as the Registered Apprenticeship program. We also urge the committee, in some key areas, to establish new, permanent programs in WIOA, as outlined in the AJP.

**Specifically, the Administration is calling on the Committee to increase access to sector-based training through a new WIOA-authorized Sectoral Employment through Career Training for Occupational Readiness (SECTOR) program.** In the transition from the Workforce Investment Act of 1998 (WIA) to WIOA, the Committee recognized sector partnerships – which bring together the workforce system, employers, unions, labor-management partnerships, and training providers to develop high-quality training programs that prepare workers for in-demand jobs – as a promising strategy. WIOA should build on that progress by establishing a new SECTOR program to support the formation and expansion of sector partnerships. WIOA should also dedicate funding for this program to ensure there are resources available to state and local areas to take on the start-up costs associated with these promising models, and ongoing resources to fund training programs' expansion over time.

**We are also calling on the committee to authorize a new Community College Training Partnerships Program** to expand access to high-quality training for in-demand skills and advance career pathways. This program would build on the successful Trade Adjustment Assistance Community College and Career Training (TAACCCT) program established under the Trade Act, increasing the capacity of our nation's community college system to deliver high-quality workforce programs that lead to good jobs. Currently, though WIOA state plans must describe how states are engaging the community college system as partners, there is no dedicated Federal funding within the statute for workforce programs within community colleges.

**Finally, we urge the committee to permanently authorize the Reentry Employment Opportunities (REO) program,** which provides adults who are or were incarcerated and youth involved or at risk of involvement in the justice system with quality workforce education and training, job placement services, and wraparound supports to enable their entry into career pathways. WIOA currently includes “ex-offenders” in the definition of individuals with a barrier to employment, but funding for the Department's reentry programs currently is provided, as directed by Congress, through the annual appropriations process under the general authority in

section 169 of WIOA. The Administration believes that reentry programs will be strengthened – and continuously improved based on the best available evidence – if they are permanently and specifically authorized as a national program in the WIOA statute.

*Expanding Access to Quality Training and Services Aligned to Quality Jobs*

In addition to supporting critical investments outlined in the American Jobs Plan, WIOA reauthorization should also promote equitable access to training as a means to connect more Americans to quality jobs. Since FY 2001, substantial declines in overall DOL funding for the WIA and WIOA formula funds – from \$3.49 billion to \$2.85 billion, respectively – have contributed to a grossly underfunded system that too often is forced to deliver lower-cost services rather than more robust training programs. WIOA reauthorization can reverse these trends and strengthen the critical role the public workforce system plays in financing and assuring the quality of postsecondary training programs and credentials.

WIOA should emphasize training strategies with a track record of effectiveness in leading to positive outcomes for workers and employers. Registered Apprenticeship is an important example. WIOA can help support equitable expansion of Registered Apprenticeship and greater alignment between the workforce system and Registered Apprenticeship as envisioned by the National Apprenticeship Act of 2021 (NAA). The workforce system can support pre-apprenticeship programs by connecting underrepresented populations to apprenticeship opportunities, particularly in the building and skilled trades. It can also help expand Registered Apprenticeship in new fields such as manufacturing, health or behavioral health care, green energy, and information technology. This may include funding to support related technical instruction costs, critically needed supportive services for new apprentices, or working directly with program sponsors to engage new employers.

WIOA reauthorization should also take steps to strengthen youth career exploration and engagement in Job Corps by expanding access to high-quality training options aligned to quality jobs and career paths, particularly through Registered Apprenticeship, and supporting innovative, evidence-based approaches to education and training for at-risk youth.

WIOA reauthorization should similarly focus on supporting more equitable access to paid work experiences, on-the-job training, and work-based learning for workers and youth to build the experience, professional networks, and social capital needed to connect with and advance within quality jobs. WIOA reauthorization can explicitly underscore the role workforce development boards can and should play—in partnership with K-12 districts, unions, labor-management partnerships, Career and Technical Education, and technical and community colleges – as intermediaries that ensure equitable access to paid-work-based learning opportunities for youth, especially those with significant barriers to employment.

The Administration believes if WIOA reauthorization is going to promote high-quality training, it must prioritize strengthening the role of Eligible Training Provider Lists in setting clear, strong quality standards for what are often shorter-term training programs designed explicitly to prepare workers for jobs. This includes taking steps to ensure states are establishing, enforcing, and publicly disclosing clear quality criteria for the labor market value of training programs and



credentials. Those criteria will help move us toward more equitable labor market outcomes across participants, higher job quality, and greater industry engagement and co-investment in training programs.

Finally, to support equitable access to quality jobs, WIOA reauthorization must expand the critical role of the workforce system in integrating training with comprehensive services as well as further opportunities for educational and career advancement. A core priority of the AJP is to increase investment in comprehensive and career services for dislocated workers, critical to ensuring equitable access and success within training programs by helping workers confront structural barriers, including affordable access to transportation, child care, and/or accessible technology for individuals with disabilities. WIOA reauthorization should also ensure every dislocated worker is able to access career services and supports available to them before, during, and after participating in a training program to support connection to a quality job. Moreover, there is an opportunity to integrate WIOA with programs that help support internet connectivity and access to technology devices, such as the FCC's Lifeline Benefit. The COVID-19 pandemic has only underscored the criticality of access to internet and devices for individuals to be able to enroll, participate in, and complete training and other workforce programs.

WIOA reauthorization should further expand access to training programs designed specifically to meet the multiple learning and socio-emotional needs of workers and key populations. This includes the expansion of Integrated Education and Training (IET) models where participants receive simultaneous instruction in basic skills such as math, reading, or spoken English, as well as training for a specific occupation or industry. Immigrants served in Integrated English Literacy and Civics Education (IELCE) should have differentiated services for pathways to citizenship and pathways to careers. WIOA reauthorization can also establish stronger linkages and ensure sustained support for programs meeting the needs of people returning to their communities post-incarceration.

*Improving data, transparency, and accountability to promote equitable outcomes*

The Administration strongly believes that WIOA reauthorization should ensure that disadvantaged groups, including people of color, low-income individuals, justice-involved individuals, and individuals with disabilities, are achieving strong labor market outcomes. In order to understand whether WIOA programs are in fact achieving their critical mission, performance measurement, transparency, and accountability must be hallmark principles of the public workforce system.

Establishing a more transparent system starts with enhanced data collection and better data use. Performance outcome information is only as strong as the data systems on which reporting processes rely. Unfortunately, the current WIOA data collection system is fragmented and inefficient, and does not incent a focus on job quality. The Administration is therefore proposing several steps to improve data quality, which will help workers, employers, and policymakers make better and more informed decisions. The Administration is calling on Congress to establish a new Workforce Innovation Network of Statistics, or WINS, at the Department of Labor, which would have stronger authority to collect and disseminate performance data to give workers and employers a better understanding of how these programs are working. WINS would assume

responsibility for collecting WIOA program data from states and pairing it with wage and other outcome data provided by states and other Federal sources to produce more than just state and local performance reports, but also data analysis, detailed disaggregation by target populations, public workforce programs and provider statistics, and evaluation of workforce programs. The result will be not only continued transparent information on WIOA program outcomes but also a deeper understanding of training provider outcomes and interactions among programs available to states, employers, job seekers, career counselors, and other critical partners. This will also help us better track longer-term outcomes such as worker retention and wage progression.

To achieve better transparency and accountability, the Administration is also calling for improvements to the common performance measures. The Administration believes that foundational employment and earnings measures should be reported on by all WIOA programs, given that the achievement of labor market outcomes is a core goal across the system. We also propose adopting a pre-program employment and earnings measure and longer-term employment and earnings measures (measured at one, three, and five years after program exit) to ensure workers served by the WIOA system receive services that will lead to long-term and improving employment trajectories in good-quality jobs. The Administration believes that new information is also needed on the quality of WIOA participants' job placements. The Administration also believes that measures across all WIOA programs should be not only disaggregated by race, ethnicity, gender, income, and geography, but that states and local areas should be held accountable for the performance outcomes of their most vulnerable groups.

Finally, we need to continue to do more to learn what works and for whom. WIOA reauthorization should promote a comprehensive evaluation and evidence system by reinforcing the importance of dedicated funding for evaluation in the Department's budget and tying the goals of these evaluation funds explicitly to the objectives of system improvement and innovation. Any funds to test new training or service delivery models should also be tied to evaluation strategies to assess how well these efforts equitably meet the needs of workers and communities. This is especially critical now as states and local areas look to adapt and learn from steps taken to meet the needs of workers and regions during the COVID-19 pandemic.

*Better Integrate Systems to Reach and Deliver for Workers and Regional Economies*

Local workforce boards, training providers, and Federal agencies that administer training grants agree that better integration of services, sharing of information, leveraging technology, and expanding program reach can strengthen the workforce system. WIOA reauthorization can take important steps to break down silos and encourage system and program alignment toward delivering equitable outcomes for workers and communities, and regional economies. It can also allow for greater coordination with the SNAP and TANF systems, as appropriate. The Administration believes putting equity at the center of WIOA demands strengthening cross-program governance, enhancing system alignment, and supporting innovative local partnerships and services to reach workers and communities, and make it easier for them to navigate services and supports.

We could expand our reach and better serve workers and jobseekers if the statute allowed the WIOA programs to more flexibly provide services traditionally available through American Job Centers in new settings. This could include supporting demonstrations that allow AJCs to co-locate and offer services to job seekers at libraries, community-based organizations, and educational institutions to provide services traditionally offered at AJCs. This new approach could increase equity by reaching hard to serve populations. Leveraging technology by allowing virtual visits and services can help serve people in a way that best suits their ever-changing work and life needs. WIOA should clarify that investments in technology and tools are foundational and direct program expenses, particularly those that make it easier for jobseekers to understand what opportunities are available to them – including the skills that are in-demand, the providers that successfully train workers in those skills, the expected earnings and benefits for jobs that match their competencies, and the level of funding and support they can expect to receive.

In the transition from WIA to WIOA, the law emphasized a dual customer – employer and worker – model. However, the current state and local workforce board structure does not sufficiently reflect the dual customer nature of the system. Business representatives chair state and local boards and represent a majority of board membership, while worker representatives represent not less than 20 percent. The Administration recommends rebalancing boards to prioritize worker voice, and to reflect the many critical stakeholders in the system. We also propose including separate officials representing the Vocational Rehabilitation (VR) program and the AEFLA program, as mandatory voting members of the State Board to ensure that the needs of individuals with disabilities and those with low levels of literacy are met through the workforce development system.

#### **FY 2022 Budget**

DOL promotes the welfare of workers, job seekers, and retirees by helping them improve their skills, find work, and regain stability after job loss, injury, or illness; and by safeguarding their working conditions, health and retirement benefits, and pay. The FY 2022 Budget request includes critical initiatives to: protect workers' rights, health and safety, and wages; strengthen the Federal-State unemployment compensation program; support training opportunities that provide pathways to the middle class; fully enforce employment anti-discrimination laws; and more; and also calls on Congress to reauthorize the Trade Adjustment Assistance program.

The FY 2022 Budget rebuilds DOL's capacity with critical investments to reverse years of declining staffing levels that harmed the Department's ability to fulfill its mission on behalf of workers, job seekers, and retirees.

#### **Unemployment Insurance**

The Unemployment Insurance system has served as a critical lifeline over the last year, helping nearly 50 million workers stay afloat during a pandemic and economic crisis and putting over \$700 billion into the economy – and staving off an even deeper recession.

Yet this crisis only further exposed longstanding challenges in UI. Overburdened and outdated state UI systems kept millions of workers from getting benefits quickly and left many unable to

access to the program, and also left the system vulnerable to fraud. The current crisis has also shown that regular UI benefits in most states are far too low, leaving families without the resources they need to make ends meet in times of economic crises. Additionally, millions of workers who lost income due to the pandemic and recession were ineligible for regular UI benefits. All three of these systemic problems, cumulatively, only exacerbated longstanding racial, ethnic and gender inequalities embedded in the UI system.

The Biden-Harris Administration has taken stock of these challenges and has developed a set of high-level principles for the FY 2022 Budget that should guide future efforts to reform the UI system. Those principles include ensuring adequate benefit levels and duration for unemployed workers; ensuring the UI system can ramp up quickly and automatically in response to recessions; addressing the lack of access to UI for workers misclassified as independent contractors, low-income and part-time workers, and workers with non-traditional work histories; shoring up UI trust funds; investing in expanded reemployment services; and improving UI program access and integrity.

#### Protecting Workers' Rights, Benefits and Safety

Over the past four years, the Department's worker protection agencies have lost 14 percent of their staff, limiting their ability to perform inspections and conduct investigations to protect the health, safety, rights and economic security of workers in America. A lack of enforcement makes workers more vulnerable to workplace violations. The President's Budget reverses this trend by proposing over \$300 million in additional funding for the Department's worker protection agencies, including \$73 million for the Occupational Safety and Health Administration, \$67 million for the Mine Safety and Health Administration, \$35 million for the Office of Federal Contract Compliance Programs, \$31 million for the Wage and Hour Division, and \$37 million for the Employee Benefits Security Administration.

The American Jobs Plan further bolsters the Department's worker protection agencies with an additional investment of \$7.5 billion in mandatory funding over ten years. These increases will strengthen enforcement capacity, combat worker misclassification, expand whistleblower protection programs, and increase outreach and compliance assistance.

#### Protecting Workers' Rights as Employees

As part of the Administration's commitment to supporting good-paying, high-quality jobs with a free and fair choice to join a union and bargain collectively, the President believes it is essential to ensure that workers are properly classified as employees. Misclassified workers are deprived of a long list of legally-mandated benefits and protections, such as minimum wage, overtime pay, workplace health and safety protections, unemployment and workers compensation insurance, and the right to organize and bargain collectively.

During the COVID-19 pandemic, Congress created a new unemployment insurance benefit to ensure independent contractors—many of whom were likely misclassified—could put food on the table and keep a roof over their heads. Employers who misclassified their workers and didn't pay into unemployment insurance got a free ride.

The Administration is committed to ending the abusive practice of misclassifying employees as independent contractors, which deprives these workers of critical protections and benefits. In addition to including funding in the Budget for stronger enforcement, the President has called for the adoption of the ABC test in federal laws, where appropriate, urged the creation of substantive violations for misclassifying workers, and both stiffer penalties and tougher enforcement. The President strongly supports the Protecting the Right to Organize (PRO) Act, which would strengthen the employee test under the National Labor Relations Act, ensuring millions of misclassified workers the rights to organize and bargain collectively they are owed. He also supports extending civil rights protections and other nondiscrimination provisions to all workers regardless of their classification.

In addition to ensuring that workers are properly classified, this Administration is committed to ensuring that workers are able to organize and bargain successfully with their employers. I am proud to join Vice-President Kamala Harris in co-chairing the White House Task Force on Worker Organizing and Empowerment. This is an issue that is personal to me and my family's story. My father's membership in the Laborers Union, Local 223 in Boston, was our family's pathway to the middle class. My parents went to workplaces that were safe, and provided them with a decent wage, health insurance, and a pension so that they could retire with dignity. And years later, I followed in my father's footsteps into the construction industry and joined the same union, and enjoyed those same rights and benefits. These are not abstract policies – they are life-changing rights. And while I am Secretary of Labor I intend to fight to ensure that all workers who wish to join a union have the opportunity to do so.

#### Trade Adjustment Assistance

While not the purview of this Committee, I want to offer the Administration's strong support of the House Ways and Means Committee's efforts to reauthorize another critical workforce development and income support program, Trade Adjustment Assistance (TAA). TAA provides workers displaced by international trade with resources and opportunities to transition to new careers. It also provides workers with access to training and a suite of supportive services, including case management, job search allowances, relocation assistance, and extended income support. While the current TAA program is authorized through June 30, 2022, a sunset provision will take effect on July 1, 2021. At that time, TAA will revert to more restrictive eligibility criteria, covering only manufacturing workers and excluding those in service sectors, and a reduced annual training cap. Without reauthorization, a termination provision will take effect on July 1, 2022.

The Administration strongly supports congressional efforts to pass either a short-term clean reauthorization before the program reversion on July 1, 2021 or a long-term reauthorization that includes mutually agreeable reforms to ensure that trade-affected workers receive effective training and adequate supports and services to transition to a good job.

#### Conclusion

Under the leadership of President Biden, we are turning the page at the Department of Labor, returning to our core mission, and working to build back better. I look forward to continuing to work with this Committee on the American Jobs Plan, reauthorization of WIOA, enactment of the FY 2022 Budget, and many other priorities. Thank you for the opportunity to testify today and I look forward to your questions.

Chairman SCOTT. Thank you very much and I certainly appreciate your testimony and we'll now have questions from Members beginning with the gentleman from Arizona Mr. Grijalva.

Mr. GRIJALVA. Thank you. Thank you very much Mr. Chairman and thank you Secretary for being with us. As we heard, as you will hear today many of my republican colleagues have talked about the so-called labor shortages, particularly in the leisure and hospitality sector caused by in part, in large part, according to them, by the supplemental unemployment benefits that were provided, and continue to be provided during this pandemic.

The jobs report from Friday showed that employment in the sector actually increased by close to 300,000 in May as the restrictions

on the pandemic ease up in parts of the country. My question is it with all that being said, and do you think that the real and persistent issue that our country faces and the Biden administration and yourself and congressional Democrats are trying to solve is a shortage of good paying jobs, high-quality jobs, wages that are being paid?

Or is it just caused by supplemental unemployment benefits that were provided during the pandemic as a recovery and a relief measure. Secretary if you would please, thank you.

Secretary WALSH. Thank you, Congressman, for your question. First and foremost I just want to say how grateful I am for the unemployment insurance system from the beginning of this pandemic before when COVID-19 really started hitting our cities across America. I was the mayor of Boston and if we didn't have the unemployment insurance, and Congress didn't act on unemployment insurance in the CARES Act and the American Rescue Plan, we would have had a lot more devastation in our cities and towns across America.

People would have lost their homes. People would have been thrown out of their apartments. People wouldn't be able to put food on the table. We would have had a lot of crises. In the beginning of COVID-19 the economy literally was shut down what seemed like overnight, but over several days.

To regenerate and restart our economy it's going to take more than simply flipping a switch as the President said the other day. I think that a lot of the concern people have is we have right now in America over 268 million people have been vaccinated. People still haven't been fully vaccinated. I think this is adding to people and the concern of going back to work.

I think people are concerned about their health. I think lots of industries still aren't open yet. The encouraging signs are that the last 4 months we've seen in addition to 540,000 new jobs added to the economy for each of the last 4 months, and as you've pointed out Mr. Congressman you've talked about the hospitality industry.

We've seen a lot of gains for two consistent months there. We've seen that President Biden's economic plans are working. The American Rescue Plan is working, and we're seeing Americans every day more and more go back to work. And I think that we still have some inefficiencies that we have to deal with in childcare in learning hybrid schools. So I'm encouraged that with the signs that we're seeing and through the month of May and I want to continue to be encouraged as long as the pandemic, the numbers continue to go down as we move forward here.

But I will say this. I do not feel that the \$300.00 bonus is keeping people out of work. If that was the original intention of your question. Thank you, Congressman.

Mr. GRIJALVA. Thank you very much and with that Mr. Chairman thank you for the hearing, and the Secretary for being with us and I yield back.

Chairman SCOTT. Thank you and I'll be recognizing Members in order of seniority, and we ask you to notice the time. We're going to keep within the five-minute rule. So thank you Mr. Grijalva and the next person to ask questions will be the gentleman from South Carolina Mr. Wilson.

Mr. WILSON. Thank you, Chairman and thank you Ranking Member Virginia Foxx, both of you for your leadership of the Committee. Secretary Walsh I represent the historic Savannah Rivers site in Aiken, South Carolina. Many of the patriots who worked at this site are the persons who were successful through a cold war victory.

Now they're eligible for energy employees' occupational interest compensation program, the EEOICP. This office has had an issue about complaints when it comes to navigating the program, and also barriers to appropriate care. Do you have plans to work with the stakeholders to develop a more transparent, equitable, and claimant friendly adjudication process as Congress has intended?

Secretary WALSH. Thank you, Mr. Congressman. I absolutely will work with you on. And look forward to working with you. We should probably connect maybe after the hearing or over the next couple of days, and obviously your constituents are concerned, and the industry is concerned as a whole workers, so I look forward to working with you on that.

Mr. WILSON. Thank you very much for that offer, and we will be in touch, and I appreciate your sincerity on that. Additionally, the energy employees program in 2019, the ombudsman report mentioned complaints regarding collection notices received for a bill that they thought was paid for by the program, or in obtaining emergency home healthcare services.

A paraphrase from the report is that, "Stress from health problems combined with the problems we're trying to resolve these medical bills in fear of financial impact arising from unpaid medical bills have led some claimants to assert they wish they had not filed a claim in the first place."

What steps do you plan to take to improve the medical claim adjudication process and delivery of promised goods to ensure that the medical providers are compensated in a timely manner?

Secretary WALSH. Certainly, Congressman this is an important issue, and we can definitely work better to make this program work on behalf of the workers and the people affected by it.

Mr. WILSON. Thank you very much. Another question would be the U.S. Department of Labor has recognized the apprenticeship of South Carolina, a division of the South Carolina technical college system as a national model for providing apprenticeship expansion and to collaboration among State agencies engaged in workforce development.

Through Federal grants and supplemental State funding the apprenticeship of South Carolina has been able to offer superior customer service to South Carolina businesses when it comes to navigating the burdensome Federal apprenticeship program. And I'm really grateful that the proposed courier and newspaper in Charleston, South Carolina where people have a very similar accent to yours in Boston, that in Charleston the newspaper there has endorsed this program.

And what are your efforts to promote apprenticeship programs?

Secretary WALSH. Thank you for talking about this area. When I was going through my hearing back in March, Democrats and Republicans all agreed on needs for workforce development in community colleges. And it's a great opportunity for us to really make



major investments in our community colleges to help young people that go to college, or people going to college whether they're on a pathway to college, or a pathway to a career.

So part of the WIOA reauthorization, part of the investment in the American Jobs Plan, all of this is what we really need to take advantage. When I say advantage, a good advantage, of our community college system that's already in our country to be able to make the investments in those colleges, so they can make the investment in the American workforce, so I look forward to working with your community college in your district, but also community college all across this country, and thank you for bringing this up in the hearing.

I think this is one of the most important things when we think about the future of workforce development, community colleges need to be at the table from the first day to the last.

Mr. WILSON. Thank you again for your insight on that. And finally a question in regard to the Inspector General's alert memorandum issued in February of this year, identified more than 5.4 billion dollars of potentially fraudulent unemployment insurance payments between March 2020 and October 2020, anticipating that the actual amounts could be significant higher.

I'm grateful that with the leadership in our home State with Governor Henry McMaster in South Carolina, that we've been diligent in adopting tools to mitigate fraud through a cross system checking careful staff scrutiny of applications and implementation of fraud indicators. What are you proposing for other states?

Secretary WALSH. Well right now through the American Rescue Plan there was a 2 billion dollar investment in our team at ETA is working right now on policy and looking at how do we look at all of the issues that came up during the pandemic, both before the pandemic, and how do we make sure that the UI system works on behalf of the American worker, so we can eliminate the problems that we're seeing.

Mr. WILSON. Thank you very much and I yield back Mr. Chairman.

Chairman SCOTT. Thank you. Next will be the gentleman from Connecticut, Mr. Courtney.

Mr. COURTNEY. Thank you, Mr. Chairman and Mr. Secretary, it's good to see you again. Thank you for your May 4th visit up to Groton, to visit the electrical shipyard and the home and the birthplace of the Fitzgerald Act Registered Partnership Program and I think we all got a very good opportunity to see the success of the Registered Apprenticeship Program, with both the building trades and the shipyard workers.

I'm going to ask you a question about that in a second, but I wanted to spend a minute. On April 4th, the House passed an OSHA bill, the Workplace Violence Prevention for Healthcare Workers and Social Workers. It passed actually with over 60 percent bipartisan margin.

As you pointed out, the healthcare workforce has been the true front line during the pandemic, but there's a colliding epidemic of workplace violence that this Committee has documented through GAO. The Department of Labor has had voluntary guidance out there for a number of years, but it's not working, and the COVID

pandemic did not abate the incidents of assaults and unacceptable levels of violence in the healthcare sector.

Again, I was pleased to see in your budget you've allocated funding for OSHA to implement a workplace violence standard rule, and I hope again you will help us in the Senate to try and achieve the same bipartisan success which again multiple healthcare professional groups and labor groups are supporting this bill.

This is really about preventing burnout in a key sector of our economy.

Secretary WALSH. Thank you, Congressman. It's great to see you again and we did have a great visit that day. I want to thank you. And I want to thank you on your leadership in this important issue. You know all across America we hear violence happening around healthcare, nurses, aides, doctors, and it's really an issue.

OSHA strongly supports your bill that's being considered by the Senate. You know we're going to continue to push in addition to that, to that legislation. Now is the time for OSHA to take the steps necessary toward developing a standard of addressing workplace violence.

I look forward to working with you and other Members of this Committee and Members of the House and Senate to talk about that. I know that during the Obama administration OSHA granted rulemaking petitions seeking such a standard, but the last administration took no action on that decision, so I look forward to working with you.

This is an issue that I'm quite honestly, I worked on a bit when I was a State legislator back 25 years ago, in the Massachusetts House of Representatives, so I look forward to working with you on it.

Mr. COURTNEY. Great. Well I really appreciate that. Again turning to apprenticeships and workforce development, as I said the two of us had a chance to sort of see first-hand how you can size up a workforce really fast as is happening at Electric Boat and also use solid standards in terms of making sure that the training programs both pre-apprenticeship and apprenticeship have real quality and high standards.

Again your testimony, your written testimony notice that again the House passed, the National Apprenticeship Act which is the first update to the Fitzgerald Act which passed in 1937. Could you talk about the way the WIOA funding and initiative in the Jobs Plan sort of dovetails in with the Apprenticeship Program?

Secretary WALSH. Yes no, absolutely. First and foremost, just for the Members of the Committee on that trip that when we visited Electric Boat that day there were two young people there that were apprentices. And both of them express now they have an opportunity to earn a living now by being in the apprentice program working for a company that actually does contracting with the Federal Government, which is important, it's a win/win.

And how one of them said that college was not for him. And if this opportunity was not presented to him, he wouldn't have had a way to earn a living. So right there there's proof in that apprenticeships work, workforce development works.

What we're looking at doing is making a major investment in apprenticeship programs through the American Jobs Plan. The Presi-

dent has allocated, I think I'm trying to get the exact figure, I think 285 million dollars which will create 2 million more registered apprentice programs in this country.

And it will benefit every single district in the United States of America with young people that quite honestly might make decisions instead of going to college, they don't want to go to college, get into the workforce. And the minute they start working as an apprentice, they start giving into the economy.

They start paying taxes. They start being a part of society, they start earning a wage, earning a living, healthcare, all of that, so this investment of 200 plus billion dollars I should say, not millions, billions, is a great investment for the future of the workforce.

Ranking Member Foxx in the very beginning talked about people not being in the workforce. Some of this is about creating an opportunity for some of those folks that want to better their life, want to be able to get in a better job, and there's no better way of doing it than through the WIOA reauthorization, the investment in the American Jobs Plan, and really looking at workforce development and apprenticeships.

Mr. COURTNEY. Very well said. Thank you. I yield back.

Chairman SCOTT. Thank you. Next is the gentleman from Michigan Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman and Mr. Secretary thank, you for being with us virtually today. First let me start by saying that I sincerely appreciate your efforts as mayor of Boston to combat human trafficking. Eliminating this scourge in society is something I care very deeply about, and next week my good friend and colleague, Representative Sablan and I will reintroduce our Enhancing Detection of Human Trafficking Act to ensure the Department of Labor employees have the skills they need to detect cases of human trafficking in the workplace.

And I look forward Mr. Secretary to working with you on this issue as I know it's something we both care deeply about.

Changing subjects, as we all know on May 13th the CDC said that fully vaccinated people can begin returning to normal life, mask free without the need for physical distancing in most settings. I hate to ask it this way, but I need to ask you a yes or no question. Does the Department want citizens and State leaders to follow the guidance put out by the CDC, yes or no?

Secretary WALSH. Kind I just before I answer that question let me just first your first point, thank you very much for acknowledging that. We did a lot of work in the city of Boston. I look forward to working with you on human trafficking. We created a division within the Boston Police Department for human trafficking, and I'm not going to publicly say some of the other things we did because it's protection of the traffickers but thank you for that.

The answer to your question is, is it's hard to say yes or no, but yes, I'd like to see people back to work. But there's a but there with the virus.

Mr. WALBERG. Your Department has decided to continue forward with an emergency temporary standard ETS that employers must adhere to in the workplace. Now the Department of Labor rule has not yet been published, but per the President's executive order the

Department must consider the requirements for masks to be worn in the workplace, and that concerns me.

Secretary WALSH. I just want to clarify it just on the medical.

Mr. WALBERG. Where everyone is fully vaccinated should workers wear a mask.

Secretary WALSH. Sorry I don't know if you've heard in the beginning just really quickly, just so I was clear. Maybe I wasn't clear. This is just in the healthcare field. The standard is just for healthcare. All the other industries it's going to be a guidance, so we're just talking in hospitals, in healthcare settings with nurses, doctors, where you have potentially high risk of contact with COVID patients.

So this isn't blanketed across the industries.

Mr. WALBERG. I'm glad to hear that. But I contend again if you're fully vaccinated, you're protected. And I think we ought to follow the science at some point in time, and even giving guidance I think is not truthful in the fact that if you want to follow the science CDC says it's right. We've seen the impact.

Even here in Michigan because of the vaccinated individuals we have dropped below any surge going back to July of last year. So I think the answer should be let's let people go back to work and do it in a normal fashion. Cases are down and continuing to decline. Hospitalizations are down, and as the President noted on June 2, over 170 million Americans have received the vaccine.

Is the Department's position a grave danger still exists to American workers?

Secretary WALSH. I think that the answer to that is impossible for me to be able to answer that fully. I'm not a scientist unfortunately, and I think that you know I like the signs of where we're headed with COVID-19. I love the fact that our numbers are going down, however people are still dying, and people are still getting infected.

But I want us to continue. Listen, in my previous role as mayor one of the worst things that could happen.

Mr. WALBERG. With all due respect I suggest we follow the science because you know to not do that, why would the Department of Labor continue its policy of issuing one size fits all rule when the CDC is saying vaccinated people can start living normally?

Let me move on from that. I don't think we're going to fully agree on that, but I hope we can move forward. The most recent jobs report reported 9.3 million vacant job openings in March. That's more than 1 million higher than at the end of April. And the fastest growth rates since July 2020.

Additionally, your own Inspector General pointed out that there's been at least 39.2 billion in wasted fraud in the pandemic unemployment programs, that by the end of September. Secretary Walsh given the plunge in COVID-19 cases, unprecedented challenges in business that all sides are experiencing, in my district and many other places, is it time for this Federal emergency employment insurance to be immediately terminated?

Secretary WALSH. I'll give you a simple answer to that, no.

Mr. WALBERG. But I'll tell you.

Chairman SCOTT. The gentleman's time is way over. If you want to complete your thought, the gentleman from Michigan complete his thought.

Mr. WALBERG. I guess to complete the thought it says that what we're seeing in the real world with job providers here in the 7th District of Michigan and other places this is having a significant impact on people getting back to work. I think it's time to end it. Thanks for the discretion and I yield back.

Chairman SCOTT. Thank you. The gentleman from Northern Mariana Islands Mr. Sablan.

Mr. SABLAN. Yes thank you. Thank you very much Mr. Chairman and Secretary Walsh good morning and thank you very much for joining us. Mr. Secretary I negotiated the Marianas eligibility for PUA and FPUC based on the government's experience in administering the Disaster Unemployment Assistance Program. And with no underlying UI system, delays were understandably expected.

However, according to your Department's Office of the Inspector General, it took 111 days for the first payment to be issued, the highest reported delay in implementation of jurisdictions. My constituents report delays in payments that range from weeks to months, in some cases, approved individuals have been waiting over a year for payments since filing a claim last June.

According to claims data provided in April by your Department, the Marianas received over 383 million dollars, but has spent 190 million of that—so just under half. What actions Mr. Secretary is your Department taking to make sure that the aid Congress made available is getting to the people who it was intended for in my district?

Secretary WALSH. Thank you. Thank you Representative, and I appreciate your concern. I want to first say to you the Department is committed to working obviously with you and your office in Congress and OIG to ensure the proper administration of the UI program.

The program's administration and integrity, we need to work hard to improve the distribution I should say of benefits. I drew a blank there for a minute. We need to continue to work hard so that this doesn't happen again. No worker should have to go through this. No area of our country should have to go through this, and I look forward to working hard with you and folks in ETA so that we correct this problem.

We've noticed during the pandemic obviously there were some problems and some situations that arose in different situations, so we have work to do here.

Mr. SABLAN. Yes thank you Secretary Walsh for that. Again, you know at the risk of repeating myself, my Marianas constituents have reported instances of PUA checks returned for insufficient funds, or inconsistent pay dates where the payment was scheduled and then did not occur. Mr. Secretary will you please agree to commit to working with me and your Office of Inspector General to review the Commonwealth's government's administration of the PUA and FPUC programs and provide the Commonwealth Department of Labor the necessary steps to get the programs on track.

People are waiting for benefits meant for them for months, some a year or more.

Secretary WALSH. The answer, the short answer to your question is yes. And there's lot of lessons learned throughout this pandemic and the shortfalls of our system as I mentioned earlier, and I didn't probably articulate correctly in the beginning. You know when the pandemic hit many cities and towns and states and territories around the country had issues with how do we administer a program so quickly?

I will not blame the people at the Department of Labor, they did an amazing job getting hundreds of billions of dollars out of the front door, but it surely showed inequities in our system, and even today we still have communities of color that were disproportionately impacted by not getting benefits out the door.

So there's lots of lessons that were learned. I want to thank you and Congress for passing the American Rescue Plan for the two-billion-dollar investment. That money that was invested in the system is for us to look at the system, look at the areas where we fell short. Look at the areas where there was problems, look at the areas where there was fraud, and how do we help strengthen the 53 systems that are around the country right now?

We're currently in the process of having those conversations, and we are going to continue to have those conversations. So thank you for bringing this up today.

Mr. SABLON. I appreciate that and you know of course it's not a massive volume, my government, my Commonwealth government took the longest to actually get the first check out of 111 days, the highest known in the Nation, but Mr. Secretary thank you very much. Mr. Chairman I yield back.

Chairman SCOTT. Thank you. Yes, next we have the gentlelady from New York, Ms. Stefanik.

Ms. STEFANIK. Secretary Walsh I wanted to followup on the question that my colleague Mr. Walberg asked regarding the additional Federal unemployment assistance. Recent data from the Bureau of Labor and Statistics reported a record 9.3 million job openings as workers are incentivized to sit at home because of this additional \$300.00 per week of enhanced Federal unemployment insurance.

According to a recent report from the University of Chicago, 42 percent of American workers are earning more through unemployment insurance that they are making in their pre-pandemic jobs. I'm hearing from small business and manufacturers all across my district, and all across the country who are absolutely desperate to fill these vacant job openings.

So as the American people are focused on reopening our economy and you go to any main street in America you see for hire signs. I believe in the American people and small business believe that we need to end this additional \$300.00 per week.

[Inaudible.]

And small businesses across this country, and why to stay at home rather than incentivizing reopening. Am I coming through now Bobby?

Chairman SCOTT. Yes, you are.

Ms. STEFANIK. OK.

Chairman SCOTT. Yes, you just got back.

Ms. STEFANIK. Great. So the question, is the incentive is such that more workers are staying home rather than getting back to

work. And you go to any main street across America and there's a for hire sign at small businesses. Why are we continuing to promote this incentive for workers to stay home rather than getting back to work?

Secretary WALSH. Thank you very much for your question and concern. I think that I want to start with the fact is that the President's economic plan is working. For the last 4 months we've created more jobs than any other administration in American history, more than 2 million people are now working that were not when President Biden took office, and we're seeing wages go up as well.

Both are positive steps, and you know we just need to continue to work with companies.

Ms. STEFANIK. What we're seeing Mr. Secretary that the labor force participation is down. That's what we saw in the most recent jobs report that was released, and again you go to any small business, the No. 1 issue they raise is that they're unable to hire workers.

In my district in upState New York you go to any main street and that is the issue, the lack for hiring. I guess my followup question is are you going to collect data from states who have wowed down this Federal unemployment assistance and compare it to states that have not, so we can truly see the impact of this Federal employment assistance.

Secretary WALSH. Actually in that question no State has done it yet, they've only mentioned it, but no one has actually taken that action.

Ms. STEFANIK. Well when they do that will that data be collected?

Secretary WALSH. I'm assuming. Well I can look at it and see if it is. The unemployment extension runs out in September. So I'm not sure when they're going to take action on it.

Ms. STEFANIK. Great. So that's not my question. My question is willing the Department collect that data?

Secretary WALSH. Of course I said it. At the beginning I said I would look into it.

Ms. STEFANIK. OK great, so I'll take that as a yes that they will look into that data so we can see the comparison because my bet, and you talk to any small businesses, I bet we're going to see much stronger job growth in states that wind it down than in states that don't.

My second question is regarding the payroll audit independence termination program, the PAID program. This was of course as you know established by the Trump administration in 2018 to encourage business owners to conduct payroll audits and to self-report violations of any are discovered. We of course want workers to be paid what they are owed.

Between its inception and July of last year this successful program resulted in more than 7 million dollars in back wages paid to more than 11,000 workers. It secured four times the amount of back wages compared to traditional full enforcement investigations and more than 10 times the back wages per labor department's staff hours invested, and yet despite the success this administration has chosen to end this program, why was that decision made?

Secretary WALSH. I'm not familiar with this program. I'd have to get more information on it, I honestly am not familiar with this program at all.

Ms. STEFANIK. OK. So as the Secretary of the Department you're not familiar with the decision to wind down a successful program to get workers? wages that they're owed?

Secretary WALSH. Like I said to you I will look into it, and I will get back to you on this.

Ms. STEFANIK. OK that's very concerning. I look forward to the response on that. It was an effective program, and I'm very concerned that the Secretary of Labor is not familiar with the decision made to wind down the program. Thank you I yield back.

Secretary WALSH. Thank you.

Chairman SCOTT. The gentlelady's time has expired. Next is the gentlelady from Florida Ms. Wilson.

Ms. WILSON. Thank you, Mr. Chair, and thank you Secretary Walsh for coming before our Committee today. As Chair of the Higher Education and Workforce Investment Subcommittee I welcome your full investment in job training and workforce development.

I also look forward to working directly with you on a robust reauthorization of the Workforce Innovation and Opportunity Act. And as an original cosponsor of the PRO Act I great appreciate President Biden's and your support for this landmark legislation. I had the opportunity to Chair three hearings on the PRO Act during the last Congress.

I applaud you and President Biden for fighting to build back our economy and we all share the commitment to ensuring that all workers are allowed to organize and collectively bargain. As you all know, unions are the backbone of American economic prosperity.

With that I have a few questions Secretary. The administration is calling for a 1.5-billion-dollar appropriation for dislocated workers. Would the administration support an expansion of eligibility for dislocated worker program through reauthorization that would take into account gig workers who wouldn't automatically qualify for these services?

Secretary WALSH. We are looking into that now as we move forward here, and I look forward to working with you on that Congresswoman to see exactly some of the areas you want us to look at as well.

Ms. WILSON. Thank you so much and thank you for allowing virtual enrollment for Job Corps centers. And as we move past that, when will Job Corps resume normal enrollments and non-residential enrollments particularly for vaccinated students? And when will Job Corps begin complying with current guidelines on vaccinations including no longer requiring vaccinated students to quarantine upon entry?

Secretary WALSH. Thank you for that. I had a conversation yesterday with some of the job corps folks to talk about we talked about the online signup. You know we talked about making sure as we reopen job corps, as we get people back into the classrooms and back into the facilities that we do it safely and to make sure we continue to buildup a team.



I'm hoping that they're working on proposals now. I was in Memphis a couple weeks ago. I had a chance to visit a Job Corps in Memphis. They have a beautiful facility there, beautiful grounds, and they had no kids and a few instructors. So I thought to myself what a shame that this place is not filled with lots of life and doing some amazing training, so we are working there.

But we also have to make sure that we in some cases, make sure that our young people have access to the vaccine that want to take the vaccine, and then also we want to make sure as we're building up the team there, part of this is also a culture of teamwork, working together, the young people working together. So our ETA folks are working really hard to make sure that we can continue.

And Job Corps folks I really should say, and the staff, working to make sure we can open up Job Corps safely and effectively and make a big impact on many young people's lives.

Ms. WILSON. Thank you so much. As the economy reopens, why is it important that workers be able to earn at least \$15.00 an hour, at least?

Secretary WALSH. You're asking me why? Listen, you know, I know you know this. The minimum wage in this country is too low. There's no way that a family of one can raise themselves on \$7.25. A \$15.00 minimum wage is a baseline that would be able to help people earn higher wages, a better living. I think that that's something that we owe to the people in this country.

And I think it's something that we're able to do in many states around the country, including my home State of Massachusetts. The impact of raising that minimum wage did not cause any job loss. As a matter of fact it was quite honest it was job gain. We're seeing increases in opportunities in Massachusetts and other states that have raised minimum wage, so I would love to work with you, and to see Congress and the Senate pass the minimum wage bill.

That's something that President Biden is very adamant about. It's something that the American people are adamant about, and it's about helping all people right now. If we saw anything during this pandemic, we saw the inequities in my city where we saw food lines. We saw food lines in Dallas. We saw food lines all across this country, something that we weren't used to seeing except around holidays where poor people and homeless people came out.

We owe the American people more, and I hope that we can get the \$15.00 an hour minimum wage passed in both branches of the government on the President's desk.

Ms. WILSON. Thank you so much. I appreciate you including that in your budget for a Federal minimum wage. And what can we do to make sure that we impose civil penalties against people who retaliate against workers who try to join a union?

Secretary WALSH. I think one of the things the President put in the American Jobs Plan the PRO Act, and that's something that is and there is some other legislation up on capitol hill that would be looking out for the rights of workers.

So I think again it's having a conversation, a dialog, with all Members of Congress about the importance of making sure that we protect worker's rights.

Ms. WILSON. Thank you so much. I yield back.

Chairman SCOTT. Thank you. The gentleman from Georgia, Mr. Allen. You're on mute.

Mr. ALLEN. Thank you, Mr. Chairman can you hear me now? Mr. Secretary thank you for joining us today. Mr. Chairman thank you for having this hearing. Mr. Secretary my State of Georgia was one of the first states to reopen during the COVID crisis.

We are currently closing in on pre-pandemic economic numbers. The biggest problem we're having, and you've heard this over and over again, is workers returning to the workforce. As you heard the number of workers who are not working, we've probably got another 20 million workers who are trapped on some form of welfare, and we know that work programs and the ability to go back to work creates a tremendous opportunity for those folks who have been stuck in generational welfare.

Secretary Walsh, Labor and Management Reporting and Disclosure Act reporting requirements serve as the primary means by which more than 7 million private sector union Members receive information on how their dues are spent.

On May 27, your Department's Office of Labor Management Standards published a proposed rule to rescind the Trump administration's final rule on labor organization trust. The Trump administration rule established the form T-1 which labor organizations are required to submit to OLMS disclosing assets, liabilities, receipts and disbursements for trust in which the union has a significant stake.

Please explain how repealing this DOL rule that ensures financial transparency for union Members is in the best interest of American workers.

Secretary WALSH. Mr. Congressman the fundamental question exists regarding the rule's legal basis and policy jurisdictions. But under the current rule the initial T-1 report must be filed as soon as September 28. Did I lose you Mr. Congressman?

Mr. ALLEN. No sir I'm here.

Secretary WALSH. Oh I thought something was beeping here. So whether the jointly trusted trust can be considered under the rule of unions, so basically this rule did not change the way we can go in and check labor, and check labor unions.

Mr. ALLEN. OK. Well we will continue to discuss that, and we'll do that offline, but I want to make sure that you understand exactly what my concern is there.

Secretary WALSH. Mr. Congressman if I can try really quickly, I apologize.

Mr. ALLEN. Yes.

Secretary WALSH. We already collect the information and the rule that we rescinded was redundant, so we already collect that information. I apologize for not giving you the correct answer.

Mr. ALLEN. OK. Secretary Walsh you testified before the House Appropriations Committee hearing in April, and my colleague Representative Andy Harris asked you if the Department of Labor would consider extending the RRSA stand-alone telehealth exemption.

Currently employers are allowed to offer standalone telehealth benefits to employees who are not eligible for full benefits, including seasonal or part-time workers. At the time you said that you

would have to circle back with him. It's been probably a month since the hearing, and I'm sure you've had the opportunity to formulate some type of policy response.

What does the Department of Labor support, or does the Department of Labor support extending the RRSA stand along telehealth exemption?

Secretary WALSH. We still I don't have a full answer for the Congressman or for you today. We are still working on that situation and looking at what the reforms would look like and what the rules would look like.

Mr. ALLEN. OK sir. And I've got about 45 seconds. In crafting the 86 billion taxpayer bailout of multi-employer pension system, congressional Democrats completely disregarded the extreme burden it placed on the American taxpayer, most of whom will not benefit from open-ended and extensive provisions.

To put matters into a perspective according to the most recent TPGC data, a multi-employee system is collectively underfunded by 673 billion. You are Chair of the TPGC's Board of Directors. I've been in Congress four terms, and we've done nothing to fix this. What is your solution?

Secretary WALSH. Thank you for that. Thank you for acknowledging that you've been in Congress for a long time and now I'm trying to fix it, so I appreciate that. The Rescue Plan does address some of the funding issues. I had a meeting actually earlier today with the folks dealing with this issue, and it's a complicated issue.

It's not a smooth one. You had mentioned the taxpayers paying to try and help this plan. Many of the folks that are in this plan are taxpayers as well living in districts around this country and on the verge of losing their pension, so I'm just really rolling my sleeves up on this issue and getting involved in it.

It's one of the areas where when President Biden called me and asked me to be the Secretary of Labor I didn't realize I was going to be the Chairman of this Committee, and now that I'm the Chairman of his Committee you know I'm grateful that the Rescue Plan did get some funding and we have some work to do there, there's no question about it.

Mr. ALLEN. No question we've got to fix the problem sir thank you. I yield back.

Secretary WALSH. Thank you, Congressman.

Chairman SCOTT. The gentleman's time has expired. The gentlelady from Oregon, Ms. Bonamici.

Ms. BONAMICI. Thank you, Chairman Scott and Ranking Member, Foxx, and thank you so much Secretary Walsh for joining us today. I'm very grateful for your leadership and the steadfast commitment from the Biden administration to make workers a priority, and I appreciate your partnership in helping to secure 100 billion dollars for workforce development programs in the American Jobs Plan. And I look forward to continuing to work with you to advance these efforts.

With regard to the conversation about getting people back to work I speak with employers regularly, and the concerns I've heard frequently as recently as yesterday is that people can't find affordable childcare, and they can't find affordable housing. So moving on Mr. Secretary, many policies to support dislocated workers are

fragmented and they put the burden on the worker to prove the cause of their displacement.

For example, workers eligible for trade adjustment assistance receive benefits like income support, and help with their job search and training, but these services do not exist for workers who have been dislocated by causes other than trade. The administration recently proposed an 18 billion-dollar investment for comprehensive support for dislocated workers to help more people access training for good paying high-quality jobs without suffering further economic insecurity.

So Secretary Walsh will this program be available to all workers regardless of the cause of dislocation? And how can this Committee expand benefits to serve more workers regardless of the cause of dislocation in our WIOA reauthorization?

Secretary WALSH. Yes thank you Madam Congresswoman. The short answer is yes. I just want to just quickly add a little bit, you know, and a lot of questions have come up about COVID. The COVID-19 pandemic has created widespread economic disruption and further highlighted pre-existing deficiencies in the availability of opportunities for all Americans to find good paying safe employment.

So as we continue to move here, I know you also brought up childcare. Thank you for the American Rescue Plan for 39 billion dollar investment to go to our childcare facilities around this country so that they could open up, and quite honestly stay open in a lot of cases.

And also thank you to the 16 billion dollar investment to our small businesses in this country and our restaurants, many of which are on the verge of shutting down. So you know we need to do everything we can with obviously with the funding for dislocated workers in the program and the formula. So thank you for your interest and thank you for your question on it.

Ms. BONAMICI. Thank you so much. And also Mr. Secretary we know that registered apprenticeships provide these life-changing opportunities. I've spoken with many people who have gone through the programs, but women still make up less than 10 percent of apprentices nationwide.

Black, African-American women, or workers also make up less than 10 percent of apprentices, and Asian-American workers make up less than 2 percent. In my home State of Oregon women's participation in trades apprenticeships is more than double the national average and that's in large part because of the work of pre-apprenticeship programs like Oregon Tradeswomen.

But these opportunities need to be accessible to workers, not just in Oregon but across the country. So Secretary Walsh how will the Department help more individuals who have historically faced barriers to employment, access registered apprenticeships, and what resources are needed to make sure that more diverse populations can participate and succeed in registered apprenticeships?

Secretary WALSH. No thank you that's a great point, and it's a top priority of the Department of Labor. It is something that as we think about these funds making sure that the money impacts the most impacted communities such as women, whether it's in the trades or other areas of apprenticeships, people of color.

One of the things that I know pretty well is this area as the mayor of Boston we created programs with the building trades and with the hotel workers to create pathways into those industries, and the biggest people that get the biggest support of this are people of color and women.

And we've seen it in our unemployment numbers where unemployment in the black community in this country is 9.1 percent, in Latino it's 7.3 percent, we saw millions of women pushed out of the workforce, they're not coming back into the workforce. We need to get back into the workforce, so we're going to be real intentional about this, and also President Biden signed an executive order in equity, executive order, making sure that not just for the Department of Labor, but all the cabinets across the government are working issues of equity and inclusion in all different levels.

Ms. BONAMICI. Thank you so Mr. Secretary and as I yield back Mr. Chairman the issue of childcare is as you know Mr. Chairman and Committee Members, going to be essential to our economic recovery. I have had so many conversations with people who say I want to go back to work but I don't have affordable childcare, so we need to solve that issue as well, thank you Mr. Secretary for your service and I yield back the balance of my time.

Chairman SCOTT. Thank you. Next is the gentleman from Indiana, Mr. Banks.

Mr. BANKS. Thank you, Mr. Chairman, and thank you Mr. Secretary for being with us today. As you know this morning probably you've seen the news that Chipotle announced a 4 percent increase in all of their menu prices across the board to keep up with rising labor costs.

I'm curious Mr. Secretary is that a good sign or a bad sign for our economy?

Secretary WALSH. I think the fact that they want to pay their workers more is a good sign. We have a number of restaurants in my district in Northeast Indiana Mr. Secretary who have closed permanently because they can no longer find workers to open their doors and operate their restaurants. Is that a good sign or a bad sign for our economy?

Secretary WALSH. I would be willing to bet that a lot of the restaurants in this country that have closed wasn't due to finding workers, it was due to the pandemic and the impacts the pandemic had on them. I think the number is about 25 percent of restaurants in this country went out of business due to the pandemic.

Loss of customers, didn't have any ability to pay their rent, didn't have the ability to pay their overhead. Many of them tried to keep their employees on the payroll but they couldn't, and I think that that's the impact, and unfortunately, the impact of COVID-19 and that's why I think it's really incumbent upon us to pass the American Job Plan and American Families Plan because it does deal with what companies and businesses all across this country have been dealing with for the last year in the pandemic.

Mr. BANKS. OK. Interesting response to both those questions. Your Departments Fiscal Year 2022 budget requests a 174 million dollar increase for WIOA State grants that help dislocated workers, low income adults and youth find work, citing the pandemic as the main reason for that gigantic increase.

Yet the Biden administration has continued to push the \$300.00 enhanced unemployment benefits which is causing workers to stay home instead of finding a job. How will offering more money to stay home not undermine the effectiveness of WIOA funding that you are requesting to help get workers back to work?

Secretary WALSH. I wouldn't necessarily characterize the unemployment benefit as pay to stay home. I think that the plan benefit was expanded because of a pandemic, a global pandemic that did lots of harm. In the WIOA funding even pre-pandemic and now during and post pandemic, sometime soon in the future, we want to be able to train America's workers to meet the need for the employers in this country who are telling us that they need workers that are trained whether it's in manufacturing, high-tech, biotech, life sciences, jobs like that that they would like to be able to use American workers to work on those areas.

So I think that we could be real intention about the investments in the workforce development programs to make sure that workers all across this country have opportunities to get better paying jobs and better their lives for themselves and their families.

Mr. BANKS. So President Biden has already rushed nearly two trillion dollars in new spending as you know, with plans for more. More than 4 trillion dollars for climate change and so-called infrastructure legislation to come. These plans will lead to more borrowing, tax hikes, and the fed printing more money at all hours of the day.

These actions are a recipe for further inflation that rob Americans of their hard-earned dollars, reduce their purchasing power, and would derail small businesses and bolster the President's monopolistic donors. All of this will stunt job growth and harm American workers.

How does your department plan to deal with that crisis that will only worsen if the Biden agenda gets enacted?

Secretary WALSH. Well thank you Mr. Congressman for that. I think that I'm very encouraged that the American Jobs Plan is an amazing investment all across America. I've talked to mayors all across this country. I've talked to governments across this country. And when you talk about infrastructure, we talked about roads and bridges, we're talking about broadband access.

We're talking about clean drinking water, eliminating lead pipes. We're talking about electric grids to create better opportunities for the energy and economy of the future. We're talking about the CARES economy. We're talking about money into new housing. We're talking about money into training and workforce development.

We're talking into a whole bunch of free community college, university pre-K, kindergarten, actually the way that I look at this plan, the way the President looks at the plan it's about enhancing America. It's about keeping us competitive and the world leader in the economy and the environment, in new infrastructure.

I know that you know again when I'm talking to mayors I was in Wisconsin, in Pennsylvania the last 2 weeks, and collectively those two states have over 5,000 bridges in desperate need of repair because action hasn't happened.

Mr. BANKS. Let me ask you a final question. Is it a good sign for our economy that the American people are spending more dollars substantially every time they pump gas and go to the grocery store? Is that good for our economy?

Secretary WALSH. Actually the President's plan is working right now. I think when you talk about that and the way that the President wants to pay for these plans is by raising the corporate tax rate, so corporations pay taxes. In some cases, they're paying zero, and he's made a commitment to every average American that makes \$400,000.00 or less, will not pay one more cent in taxes.

Mr. BANKS. My time has expired.

Chairman SCOTT. The gentleman's time has expired thank you. The gentleman from California Mr. Takano.

Mr. TAKANO. Mr. Secretary thank you for being here today. Are you aware of a new study that was published by the World Health Organization and the International Labor Organization that says that working 55 hours or more a week is a serious health hazard, and that the pandemic poses serious risks of having Americans and workers around the world work too long?

Secretary WALSH. I haven't seen the study that you're referring to, but certainly I have had many conversations in my life about the impacts of people's work hours and as a mayor we also looked at certain industries, whether it's public safety, or public works in different parts of the city where people were working a certain amount of hours and the impacts that they would have on their families.

Mr. TAKANO. Well specifically related to the pandemic the fact that people are teleworking, working from home, that the distinction between work and home has blurred, and that's leading to the risk that people are working such long hours. It's estimated, and even before the pandemic, it's estimated that long working hours led to about 745,000 deaths worldwide in 2016, a 29 percent increase over the year 2000.

I mean I'm setting this as a prelude to the issue of overtime. It was suggested that one of the ways to address this health risk is to ensure that we enforce overtime laws. And many people don't know that in addition to giving the Federal Government the ability to set the minimum wage in our country, the FLSA also gives the government the ability to set overtime standards.

By extending overtime protections to millions of workers we can boost wages, but also help prevent employees from working excessive hours. Now my office sent you a letter supported by some Members of this Committee to encourage your Department to address a salary threshold in line with a historical high point of salary thresholds, the 55th percentile, which really translated by the year 2023 would be around \$85,000.

Currently the overtime threshold is around \$35,000. Do you think that the current overtime salary threshold is too low?

Secretary WALSH. Yes definitely.

Mr. TAKANO. And so do you have any plans to revisit the issue and re-regulate in this area?

Secretary WALSH. Well currently right now doing that, reviewing that regulation and rule right now is literally as we speak, we have people at the Department of Labor working on that.

Mr. TAKANO. And you know prior to the Trump administration not appealing a judge's case, which overrules the previous administration, Obama administration's attempt to raise the threshold, the salary threshold was stuck at a very, very low place for 10 years. Do you think that we need automatic and regular updates of the threshold to protect workers?

Secretary WALSH. Yes, we do.

Mr. TAKANO. And are you also planning to do that as part of your review?

Secretary WALSH. That will be part of the review.

Mr. TAKANO. Well I'm glad to hear that Mr. Secretary. You know with my remaining time I want to know if you know anything about the equal participation of faith-based organizations and the Federal agencies' programs rule that is currently which would require that people participating, Americans' participating in certain programs would have to you know attend things that are religious in nature. Are you aware of that rule?

Secretary WALSH. Is this a religious exemption rule you're talking about?

Mr. TAKANO. No, the rule is entitled The Equal Participation of Faith-Based Organizations in Federal Agency's Programs and Activities Rule, and currently the rule. There are organizations that have filed against the rule. I'm wondering if you know much about this rule and are prepared to comment on it?

Secretary WALSH. Yes no, I'm not prepared to comment on it. Let me look into it and get back to you on that.

Mr. TAKANO. OK. Similarly, I'd like you to look at the implementing legal requirements regarding the equal opportunity clause's exemption. That might be the rule that you were thinking of. The final rule is under a stay and OFCCP has proposed to rescind the rule. Can you say anything about that?

Secretary WALSH. No let me look into that one. I'm trying to get some notes on it right now. And I don't have information in front of me on either one of those.

Mr. TAKANO. All right. My time is up. I would appreciate your being in touch with me about those two rules.

Secretary WALSH. I will Congressman thank you.

Mr. TAKANO. Thank you.

Chairman SCOTT. Thank you. Next on the republican side Mr. Thompson and Mr. Grothman, Mr. Comer, do not appear to be here. The next would be the gentleman from Idaho Mr. Fulcher.

Mr. FULCHER. Thank you, Mr. Chairman and Mr. Secretary thank, you for being here and participating today and also for your service to the city of Boston, and I hope you appreciate how I said that. I've been working on it many times. I'm from Idaho, we don't say Boston, we always say Boston.

Secretary WALSH. You did pretty good there, you did all right there it wasn't bad. You were pretty close.

Mr. FULCHER. I have to park my car in Harvard yes. Anyway. Thank you for your service and I appreciate the question by Congressman Takano because where I think he was trying to go is where I would like to discuss it as well. If I understand it correctly it was March 23, the Department of Labor announced plans to re-



scind the rule protecting equal participation of safe based organizations in Federal contracting.

And that rule as I understand guarantees protections of the Constitution Federal law for religious contractors so they can participate in the Federal contracting system while following their religious beliefs. And so that's the basis for that, and I believe that's what Congressman Takano was talking about as well.

And so since overturning this rule could adversely impact religious organizations and discourage participation in the Federal contracting process, that was my question too. Do you agree with that?

Secretary WALSH. Let me just get my notes in front of me. In the current proposed rescission is not yet public. I think it was the Congressman's second point, your first point. Currently it's under review with the Office of Management and Budget Office of Information and Regulatory Affairs.

Once a notice of proposed change rescission is published for public comment the Department will consider all comment on all the proposals, so I'm not at liberty to be able to discuss it right now but is under review.

Mr. FULCHER. OK and I thank you for that and thank you for considering it. If I may a word of encouragement. I believe that there are very good reasons for faith-based organizations to have that equal protection and for that rule to remain in place. And just three general categories.

Politically speaking, over half of Americans subscribe to spiritual religious affiliations first of all. That's just from a practical standpoint. From a political standpoint rather, practically speaking I believe you can make a strong argument that it's our religious principles that are the basis for our rule of law, for our civility, for social structure and personally I believe for our prosperity.

And then last there's legal precedent now, at least two Supreme court cases in 2014 *Brewell* versus Hobby Lobby in the 2018 Masterpiece Cakeshop versus Colorado Civil Rights Commission. So Mr. Secretary that's basically where I wanted to go with the dialog.

And I just believe that moved to disadvantage faith-based organizations just will have a very devastating and negative impact, so I urge your involvement and your consideration in that regard, and any comments you'd like to have before my time is up.

Secretary WALSH. Oh thank you and I look forward to working with you on this and thank you for your great Boston accent today.

Mr. FULCHER. All right thank you Mr. Secretary, and Mr. Chairman I yield back.

Chairman SCOTT. Thank you. I haven't heard Boston pronounced correctly in a long time. I went to college in that area and so I know how it's supposed to be said, and down in Virginia we don't pronounce it that way, but it was an interesting reminder.

The gentlelady from North Carolina Ms. Adams.

Ms. ADAMS. Thank you, Mr. Chair and Boston is correct. Thank you for convening the hearing today and to my colleagues for their questions. Secretary Walsh it's good to see you again. Thank you for your testimony today.

According to the Bureau of Labor Statistics, today nearly four out of five private sector workers have no access to paid leave. 95

percent of the lowest wage workers, mostly women, and workers of color lack any access to paid family leave.

During the COVID-19 pandemic a disproportionate number of women, especially women of color left the labor force, and this is because industries where women are over-represented have been hardest hit by lay-offs and women have had to increase their care responsibilities making it more challenging to balance work and family responsibilities.

So Mr. Secretary how could pay medical and family leave at the Federal level help women return to work?

Secretary WALSH. Thank you, Congressman, for that question. Well, there's a lot of things I could speak as, paid family leave and medical leave for women would be a tremendous benefit. In one of my last roles as mayor of Boston I signed an executive order having 12 paid weeks of paid family leave for people working in city government, prior to that we had 8 paid weeks.

It makes a tremendous impact in the entire workforce. The pandemic certainly has showed us as you mentioned, the disproportionate affects it has on women, women of color in our communities. It underscores the importance of why paid family leave is needed and medical leave is needed. We saw families who were home taking care of loved ones.

They had to take them out of nursing homes and put them in their home because they were concerned about their health. They were concerned about the care, and you know we need to continue to move forward. The American Families Plan as the President has talked about, and I talked about and you actually talked about the other day would create a program that would ensure workers receive partial wage replacement for the time to bond with a new child, care for a seriously ill loved one, deal with the loved ones military deployment.

We also need to support our military men and women who and their families are serving our country. Also women that find themselves, find safety from sexual assaults, stalking, domestic violence, healing from their own serious illness. It's time for us to deal with this. It's time for us to really think about how we move forward, and I hope that as we continue to move forward the American Families Plan, the American Jobs Plan has some really important investments in it that really helps the American worker.

The last thing I'll say it's a respect issue. It's respecting the American worker as well. It's a way for us to respect the worker and their benefits. I was on a call, it would have been a meeting where I was on the call with three large employers in the United States of America about 3 weeks ago and they were talking about the importance, they have family leave in their companies.

And they talked about it as a way to respect and help their workers and these are big companies in America that support it, so I don't think a lot of people are against it, now it's time for us to take action on it.

Ms. ADAMS. Right thank you. You know, during the pandemic, employees have made difficult decisions to leave the workforce to care for loved ones or to battle illness. Can you tell us why job protection is a crucial policy, as Congress works to draft and pass the paid family medical leave in the American Families Plan?

Secretary WALSH. I think, you know I know this. I mean my experience as Secretary of Labor and then you go back at any level I had it's important for us to continue to support the American worker with different supports. I think that you know I've heard over the last few weeks about the \$300.00 is a handout. That's not a handout. That's unemployment benefits that people earned and the Congress voted on.

I think whether it's paid family leave, worker protection, 40-hour work week, overtime rules, all of these are worker protections that we need to make sure that are in place. If we didn't have these worker protections many of our workers would be taken advantage of.

Ms. ADAMS. Thank you, Mr. Secretary. You know we've had some issues in terms of OSHA and inspections. Let me just ask you, do you think it's too ambitious for Congress to provide enough funding for OSHA to inspect each facility once every 100 years? I mean in your view is once a century too frequent? If not, what is the right benchmark?

Secretary WALSH. I think we need to get to a point where OSHA is doing inspections, but not only inspections but helping companies to make sure there are safe working conditions for their workers. Right now we're responding to crisis. OSHA for the most part goes out to a situation after a crisis occurs, after a tragedy happens.

The investments from the American Rescue Plan are going to help us staff up to where we were in 2017, but really a major investment in OSHA to work with companies across America to have safe workplaces before they're dangerous is something I'd like to see. So it's hard to answer your question, but I think we should be able to inspect worksites at least once every 2 years at the minimum, not once every 100.

Ms. ADAMS. Thank you very much. I'm out of time. Working hard is not enough if you don't make enough, I appreciate your position on minimum wage. Chairman I yield back.

Chairman SCOTT. Thank you. The gentlelady's time has expired. The gentleman from Pennsylvania Mr. Keller.

Mr. KELLER. Thank you, Mr. Chairman. I appreciate the opportunity to be able to be with everybody today and discuss things that are happening the Department of Labor. Secretary Walsh I was disappointed to see the Department of Labor rescind the Trump administration's rule establishing policies and procedures for issuing sub-regulatory guidance.

This commonsense rule sought to limit what has unfortunately become a common practice at the Department of treating informal guidance as legally binding. A short-cut which eliminates legal protections for employers and workers found in former rulemaking such as advance notice to the public when an opportunity for stakeholders to comment.

Do you believe there's a legal difference between regulations and guidance?

Secretary WALSH. Thank you, Congressman, for your question. We are always going to follow the Administrative Procedures Act. I mean we're always going to follow that guidance.

Mr. KELLER. OK. So I guess it's a yes or no. Do you believe there's a difference between, a legal difference, between regulations and guidance?

Secretary WALSH. Yes.

Mr. KELLER. OK. Because I know you discussed guidance earlier when it came to COVID-19 in healthcare settings versus other places, so I just want to make sure. Is sub-regulatory guidance issued by your Department legally enforceable?

Secretary WALSH. It really depends upon what the guidance is.

Mr. KELLER. So in other words what you're saying is it's going to be even more difficult for businesses to understand what the guidance is, whether it's legally enforceable and the difference?

Secretary WALSH. I think we have regulations you know it's going through a process and becomes a regulation of a business. And the guidance is in some cases a recommendation. And it's similar to when I talked about the ETS the regulation that we're putting forth is for hospital workers, and the guidance is recommendations for you to suggest use the guidance to keep your workers safe.

There's a very different enforcement piece there when it comes to guidance and regulation.

Mr. KELLER. Well also but Mr. Secretary during the Obama administration OSHA was uniquely antagonistic toward you know job creators, our employers, forcing an over-zealous enforcement and punishment rather than working with employers to improve workplace safety outcomes and prevent accidents before they happen. This included the policy of regulation by shaming which involved publicizing the results of an OSHA inspection before a business owner had the opportunity to contest the citations, many of which were ultimately overturned.

Unfortunately, we are seeing signs that this practice is making a comeback at OSHA. Do you support the adversarial policy of shaming employers? And should business expect this lack of due process to continue to be common practice under your watch at the Department?

Secretary WALSH. You know I just want to be as I'm hearing you, I'd like to followup. I'm going to give you an answer in a second, but I'd like to followup on this. The folks at OSHA that work at the Department of Labor workers should be hired every day and they've been understaffed for the last 4 years.

Mr. KELLER. I honestly just want to get to the fact.

Secretary WALSH. I will.

Mr. KELLER. Do you think the people that employ Americans should have due process during your watch at the Department?

Secretary WALSH. I think the people that employ Americans need to keep workers safe.

Mr. KELLER. And do you believe that most people that employ Americans across our Nation care about their employees and want them to be safe?

Secretary WALSH. I would hope so.

Mr. KELLER. Do you believe that?

Secretary WALSH. I believe it yes; I would hope so.

Mr. KELLER. Yes, I believe they do too. As with anything there's some people that need to be held accountable. We all want that to

happen. But I believe the majority of people I represent that are job creators are small businesses, and they want their employees to be safe.

The people that run these businesses are families, our friends, our neighbors, that's who they are. They're our neighbors. They contribute to civic organizations. They want people to be safe, so I'm glad we agree that most people in American who create jobs are good hard-working people that want their employees to be safe.

Secretary WALSH. I agree with you on that, and as mayor I love my small businesses. I mean without small businesses you add them together there are largest employers, and they create opportunities and as Secretary as Labor I love small businesses as well. And this is something I take very seriously.

Mr. KELLER. And so do I because often times you know people say businesses are going to do this, or they're going to pay corporations or businesses are going to pay these taxes. In Pennsylvania Governor Wolf in his first budget address back in 2015 said that 70 percent of the companies doing business in Pennsylvania don't pay corporate income tax. Well the truth of the matter is that over 70 percent of the businesses in the Commonwealth of Pennsylvania are sub-chapter S, LLC's, partnerships, sole proprietors OK?

So I think as policymakers and people that want great outcomes for people to go to work every day need to recognize, and not have the political theater that somebody else at these businesses are nebulous entities.

Many times these small businesses as you pointed out, are the back of our community and we need to recognize that, so when we talk about taxing businesses or putting regulations on businesses, let's put a face to those people who the Biden administration wants to tax and make pay all this money. So with that I see that I just have another thing that I'd like to, I guess I over aren't I Mr. Chairman, so I guess I'll yield back and thank you I appreciate being able to participate.

Chairman SCOTT. Thank you, the gentleman's time has expired. The gentleman from California Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman and Mr. Secretary, just some comments about your accent. I think it's wicked good, as a native of the Commonwealth of Massachusetts and a former resident from the West End of the Back Bay area, I think it's good.

And I won't go into the details of the great education the Chair got in the Commonwealth of Massachusetts, but it is reflective of his wisdom. Mr. Secretary, I wanted to talk to you about the transition of our energy workforce. I represent an area that has five of the 13 refineries left in the State of California.

They are pretty much.—you cannot argue that they're not the safest, highest paying, good quality jobs, institutions of their type in the United States. And I'll take some credit for this both at the local, State, and Federal level, along with my colleague, or I should say my predecessor, Congressman Miller, who Chaired this Committee.

So the good news is these are great paying jobs. They're required by State statute that I was a coauthor of when I was in the legislature that requires all the employees to be graduates in good standing of the State apprenticeship standards which we are very proud

of in California. We have academies in disadvantaged communities, high schools that young people can go, get apprenticeship and partnerships with the building trades and the local labor council.

They can go to school in high school, get apprenticeship, get out, get a job in these refineries for turn around work or with the steelworkers, the maintenance workers that are \$125,000.00 a year, and they're world class.

Yesterday I was at my local UA and I'm just so proud of those folks. Such a real investment in career training. So the challenge though is we're transitioning like Boston, San Francisco Bay area, very progressive environmentally. I used to be on the Air Resources Board. We want to make our carbon reduction. So I've had this conversation with Gina McCarthy, who like you has a great accent, with Secretary Granholm, who has great experience here in the Bay Area with our national laboratories that are doing great jobs with DOA grants.

So two questions, three questions for you. What are your thoughts on this transition? I've had meetings, dozens of them, with my friends in the workforce that have been accelerated because of COVID, one of our refineries shut down and we lost 600 steelworker jobs. And potentially hundreds of turnaround work.

Now they're transitioning to biodiesel. So I'd like to have your thoughts about this. I'd also like to see if you could help us at the regional level coordinating the assets of the Department of Energy, Labor and we've had this conversation with Secretary Buttigieg, and I know it's a priority for the President, and I know it's a priority for the vice-president.

So your thoughts on this transition. It's complicated, it's difficult, I know you know to take a boiler maker or a very highly skilled industrial welder or electrician and try to find another job for them and do it with respect is a real challenge, but we need to do it.

So I'd love to have your thoughts and your help in coordinating the resources both in a national level and at a regional level as the administration gets ready to appoint regional administration. Thank you.

Secretary WALSH. Thank you, Congressman, and I want to thank you for the budget question. This is fiscal 2022 budget President Biden proposed an establishment of competitive grant programs, the clean energy training grant program prepared for eligible veterans, transitioning service Members and their spouses for good careers in clean energy. That's one area.

And another area is what we would be talking about the job training and apprenticeship program, the 200 plus billion dollars that's going to be invest in. We have real opportunities here. You're absolutely right when you're talk about the boiler maker, you talk about the UA, those are plumbers, pipefitters and steam fitters.

Their industry has changed in the last 20, 30, 40, 50 years. There's an opportunity for us to retain workers into these clean jobs. When the President spoke about the environments about a month and a half ago, he talked about jobs, he talked about job training, and he talked about workforce development.

He talked about apprenticeships. He talked about making those investments, so there's absolutely no reason why as some of these industries transition out in areas like your districts why we can't

keep those same jobs there in a different type of energy use, so No. 1.

And No. 2, the second question is you absolutely have my commitment. I would love to work with Secretary Granholm and Gina McCarthy from Jamaica Plain in Massachusetts. And Gina and I have actually had conversations about this already when we worked in the past administration, I was the mayor, and she would come and talk to me about creating opportunities for jobs.

We talked about retrofitting as mayor of Boston, retrofitting housing. There's good jobs in retrofitting as well. There's a lot of opportunity here, so I look forward to working with you and keeping and building a collaboration of how we can keep in charge in your district quite honestly.

Mr. DESAULNIER. Thank you, Mr. Secretary. I look forward to you may be coming and visiting what we're doing here in the Bay Area. Thank you Mr. Chairman I yield back.

Chairman SCOTT. Thank you. I understand the Ranking Member seeks recognition. The distinguished Ranking Member is recognized for 5 minutes.

Ms. FOXX. Thank you, Mr. Chairman. Secretary Walsh you made a comment before about going to a job corps site and it was so beautiful, but there was nobody there. Our focus on job corps has been the problems with the job corps program. They predate your time with the administration by several decades, in fact the problems been listed among the top management challenges facing your agency every year dating back to the Bush administration.

Beyond concern just for taxpayer dollars, this is an issue of basic safety and security for participants in the program. These students are among the most vulnerable young people to our country, and they deserve better than complacency for a failing program.

What steps do you plan before beautiful facilities to overhaul this program, so it actually protects students safety in job corps, both centers that were participating in the program. Please tell us your plan to improve performance of the overall program, and will you commit to providing the Committee with regular updates on job corps program including notification of any major safety violations and incidents.

Secretary WALSH. Thank you, Ranking Member. I do feel that beautiful facilities are important. Clean facilities are important. Safe facilities are important. As mayor of the city of Boston I made it a priority to make sure that we were able to reconstruct our center for youth and families in the city of Boston.

Our kids need to have pride and your people need to have pride in where they're going. We also need to continue to build corporate partnerships with businesses in regions and areas so that the participants of job corps when they get through job corps they have an opportunity to be able to get a job at the end of that, and really raise a family and support a family.

Those young people that get married or have kids going into job corps. We need to make sure that we continue the supports inside there, that we give them the technical support in the substance, mental health, and any type of support they might have. The young people that are participating in job corps. Often times from what I understand they go into job corps, lots of challenges, and

we need to make sure that as they enter in with those challenges they leave no challenges left behind so they can have a good productive, healthy lives and that's what I would like to see.

I would like to do more job corps as well. I'd like to you know it's an area that is right in my wheelhouse, whether it's the mayor of Boston as a coach, or whatever experience I had in my life. I think job corps, we have such an incredible opportunity to help young people in this country.

Ms. FOXX. Thank you. Let's talk some more about that. Mr. Secretary during your time as mayor of Boston the Boston Globe attempted to attain city records concerning a former police union president accused of sexually assaulting minors. A public records request that your administration refused to accommodate, even after the State supervisor of public records specifically questioned your decision to keep the records secret.

Redacted files were finally released by your successor earlier this year reveal that one of Boston's major police unions threatened to file a grievance on behalf of the accused union president in 1997 after he was restricted to administrative duty.

As a result he was reinstated as a patrol officer and allowed further contact with children resulting in additional incidents of alleged abuse. In light of these revelations your prior background as a union leader and your recent action to repeal a Federal rule providing for greater union transparency intended to fight union corruption.

How can you assure Committee Members that you will faithfully and fairly administer workplace laws in your department jurisdiction which apply both to employers and labor unions, and additionally considering these revelations how can you diligently and effectively manage over 15,000 Dol employees while holding them accountable for their actions when necessary.

Secretary WALSH. The way I could do that is I raised my right hand and I swore on a bible to uphold the Constitution of the United States of America and I uphold it to carry out the functions as Secretary of Labor, and I take that very seriously, and I take that obligation very seriously, and I take swearing in very seriously as well.

Ms. FOXX. Well we appreciate hearing that. I want to followup on what Mr. Fulcher asked you about the need for us to protect religious liberty. And you said you didn't know about the rules that were being changed from the Trump administration. But I'll ask you a very simple question. Can you assure the Committee that DOL policies and practices will protect religious liberty which is the first liberty listed in the Constitution?

And will you make sure that there is no discrimination against religious organizations?

Secretary WALSH. As I said earlier to the Congressman, excuse me when he asked me the question. The proposed rescission is published for public comment in the Department. I can't comment on it right now, and the Department will consider all comments received on the proposal, and this is in the Office of Management and Budget Office Information and Regulatory Affairs, so it's in OIRA, I cannot comment on it.



Ms. FOXX. Regardless of the rule will you commit to protect religious liberty?

Secretary WALSH. Again I'm not going to talk.

Ms. FOXX. That's a simple question.

Secretary WALSH. I'm not going to comment on it until the regulation comes back.

Ms. FOXX. So you won't commit to protecting religious liberty of people involved with the Department of Labor?

Secretary WALSH. You know one of the things that we have to do is I have to balance a lot of interest, and again I will comment on it when we get the rule back.

Ms. FOXX. I'm talking about this regardless of the rule itself. Just religious liberty in general. If you swore to uphold the Constitution, then I assume you know what's in the First Amendment.

Secretary WALSH. I do.

Ms. FOXX. OK. Then you're sworn to uphold no laws impinging on people's religion.

Secretary WALSH. No again I appreciate your persistence on this, and I want to when the rule comes back, when the comment comes back, when I'm able to comment on it I will talk to you freely about it, but as of right now it's in the Office of Management and Oversight.

Ms. FOXX. Thank you Mr. Chairman I yield back, I apologize.

Chairman SCOTT. OK no problem. The gentlemen from New Jersey Mr. Norcross.

Mr. NORCROSS. Thank you, Chairman and Secretary Walsh, great to have you here and as a guy from Jersey I don't hear any accent, you sound just like us. But I love to hear the other side talk about how they want to get through and have transparency at the same time they're denying January 6. It's ironic. But I wasn't going to play on that.

I want to talk about the COVID and its impact on Americans, the mental health and the issues. The addiction rates and death rates are soaring, and we have something that is called the mental health and addiction parity which puts so much of an emphasis on making sure that mental health is treated as many of your physical issues.

That was put forth by Patrick Kennedy many years ago. But one of the challenges is I'm sure you know is the enforcement. There are no teeth. Can you tell us what the Department is looking at in terms of putting some teeth behind there? We have a bill that currently would give you that sort of hammer to make sure employers do the right thing.

Secretary WALSH. Thank you, Congressman, and first and foremost your bill is an important bill, a piece of legislation. I had a conversation. I did a webinar with Congressman Kennedy the other day to talk about this issue, to talk about NSHA's role in this. The issue of mental health and substance use treatment is certainly very close to my heart as somebody in recovery.

I have fought my entire career, whether it's at a legislative level, or as mayor of the city of Boston to access treatment for people to have access for treatment for people. Not just simply access but having long-term access to treatment. There is not a Member of

this Committee that a family Member is not dealing with the issue of mental health or substance use disorder.

It's something as a country we need to do more on. NSHA is working with health plans right now and health insurance to make sure we achieve the goal. You're absolutely right the pandemic was a perfect storm for people with mental health and substance use issues because we were telling people to isolate, stay in your house and don't talk to other people, and it only exasperated the issue of mental health.

So I'm going to do everything I can in my time as Secretary of Labor. I know I probably shouldn't say this, but I think if it's the only thing I do as Secretary of Labor it's about saving lives and offering help for people, so I'm going to work with you, and work with any Member of this Committee and I think the issue of mental health and addiction equity act is truly a bipartisan bill that we can all work together because all our families are dealing with some sort of issues.

Mr. NORCROSS. Thank you so much. I want to shift to something you know a little bit about, the construction industry. The ebbs and flows. There's employment at times and there's unemployment. And when there's unemployment we go to where the work is, and that's why one of the basis for registered apprenticeship programs.

Because the idea having two different systems within a country when those workers get together chaos certainly is created. When we look forward to a registered apprenticeship program which sets standards, and that's incredibly important because as we all know when you're not all reading from the same book it becomes very difficult.

There's nothing presently in law that prevents any company from creating their own apprenticeship program. They're allowed to go do it at any point. The difference is they want us to pay for it. And that's where the difference is. Talk to me about what the registered apprenticeship program looks like when we tie into it the pre-apprentice. Why is that important particularly in the urban areas and for those that haven't had the opportunity?

Secretary WALSH. Thank you. And certainly you know a lot about this as well as being an IBW man. A registered apprenticeship program provides an apprentice, an individual, man or woman, with not only a job, but a pathway to a career. And that's important to understand that. Apprentices receive a progressive wage tied to the scale and competency of their jobs, which means that when they start out in the apprentice program you start out in a wage and then you work your way up eventually to a full wage, but you work your way up to a wage.

What that does it allows companies to be able to hire people that might not be as skilled as somebody that has a full license. The ability to learn on the job training and as you go through the apprentice program. It's on the job training. It's probably one of the most impactful programs that we have.

We actually should probably spread this idea into more workforce development programs. The completion of the registered apprenticeship program when somebody goes through it and they vary, I think your industry is 5 years, some industries are 3 years, some industries are 4 years, and they vary as they move forward.

But it conveys the apprentice brings real value and significance to the labor market by having somebody in that training skill. It allows people the opportunity. So you know I believe that that's key. I also believe in the public private partnership part of it is by bringing employers to the table to talk about it because employers can help understand, use the electricity industry.

Employers come to the table, and they might want to go into you know putting solar panels on roofs or building wind farms and you're able to adjust the curriculum in the registered apprenticeship program to adjust to the industry. So that's the benefit to those programs of that program.

Mr. NORCROSS. Thank you. Chairman, thank you for yielding back a little bit of time I yield back.

Chairman SCOTT. Thank you. I understand some people may have been coming in and out, so let me go through the list again. Mr. Thompson, Mr. Grothman, Mr. Comer, Dr. Murphy, the gentle lady from Iowa Mrs. Miller-MEEKS.

Mrs. MILLER-MEEKS. Thank you so much Mr. Chair and Ranking Member Foxx and also Secretary Walsh for being here. Secretary Walsh in 2008 the Department of Labor issued regulations allowing small employers and self-employee individuals to access quality and affordable healthcare coverage through an association health plan.

And let me say since you may be unfamiliar with me, I'm the Second congressional District in Iowa, represent a rural district, a physician, a former President of the Iowa Medical Society, and also a former Director of the Iowa Director of Public Health who saw these association health plans to be very helpful.

Allowing small employers and self-employed individuals to join together for group coverage for health insurance purposes allows them to purchase health plans the same way large employers do. Association health plans are subject to all of the Affordable Care Act's group coverage requirements. Data shows that AHB's voluntarily cover all 10 of the ACA's essential health benefits, and these plans typically have broader provider networks relative to the ACA compliance small group and individual market plans.

In 2019 the AHB regulations were invalidated by the DC District Court. But a review of that decision is pending at the DC Circuit Court of Appeals. If the Circuit Court overturns the District Court ruling and upholds the regulations will the Department of Labor respect that ruling, and implement the regulations, or does the Department plan to rescind these regulations through a new rule-making process?

Secretary WALSH. I know I'm a little familiar with the case because I believe my Chamber of Commerce in Boston was looking at that, so I have a little familiarity with it. I am not familiar at the moment however if the Department of Labor what the past practice was in 2008, 2010, 2014, and up to today.

So I'm not aware of any move by this administration to rescind that. But again, I don't have the full answer on it. This is the first time that I wasn't aware this issue, I mean I knew it was pending, but I didn't know where it was in the court, so let me look into that. But I hear you. You didn't tell me your concern, but I can hear where you're coming from in this and let me look into this.

Mrs. MILLER-MEEKS. Thank you very much. Also you were quoted in a Reuters article as saying that gig workers should be classified as employees and deserve work benefits like full health coverage. This statement had a significant impact on both the stock market and causes shares of Uber, Lyft, Door Dash, and Grub Hub to fall significantly. You later said that you were misquoted. Is this an indication that you would recognize this policy could destroy the business model of these companies?

And I can also tell you in my little town of 25,000 people that having an Uber has developed as a small business and been extraordinarily helpful, especially to people of low income in my area where having a taxi service is not beneficial. So I'm just wondering if your position on the gig economy and gig workers has changed?

Secretary WALSH. Yes thank you. I don't know if I would say changed. I would say that that article was at the end of the article, and I was asked the question about employees and gig workers. But what we've done since is I've had meetings with many companies, Uber, Airbnb, I mean sorry, Uber, Lyft, Door Dash, I've worked with worker advocate groups.

We're working now to talk about this industry, so we've had very open dialogs. I think if you spoke to them they would be very pleased with the fact that we've had conversations about this, so yes I don't want to say I wasn't misquoted, because I was quoted, but it was kind of like a whole comprehensive conversation. I probably should have selected my words better.

Mrs. MILLER-MEEKS. Well I want to thank you for meeting with these companies and having the open mind to engage and interact with them. And I firmly believe as a physician and a former director of an agency much smaller than yours, that culture starts at the top.

So when you tell me, as I'm a 24 year military veteran who also swore that oath to the Constitution, when you told me you swore an oath to the Constitution and that's to whom you have fealty, but when you're asked about support for religious liberty and you cannot answer whether you would support religious liberty, that to me tells me about the culture of your agency, so I find those two things to be contradictory, and with that I'm going to yield the rest of my time to Representative Virginia Foxx. Thank you, Mr. Chair.

Ms. FOXX. I thank the gentlewoman for yielding. Mr. Secretary on February 25 Congressman Keller and I sent Acting Secretary of Labor Al Stewart a letter requesting the Department provide the Committee information regarding the rationale for issuing an OSHA emergency temporary standard on COVID-19. We've not received a formal response to our letter after more than 3 months.

And we think this is unacceptable. Congressional oversight is a bipartisan priority for this Committee, and a responsibility I take very seriously. Do you believe it's appropriate for the Department to ignore legitimate oversight requests from this Committee? And will you commit today that the Department will formally respond to future oversight requests from Committee Members by the requested deadlines?

Secretary WALSH. Yes, the answer is yes to the question of any type of recommendation or response from you, from the Congress I should say.

Ms. FOXX. Thank you very much Secretary. I yield back Mr. Chairman.

Chairman SCOTT. Thank you. The gentlelady from Washington Ms. Jayapal.

Ms. JAYAPAL. Thank you Mr. Chairman I am thrilled to see that my colleagues are suddenly supporting the idea of responding to oversight letters. I don't think that we got a response to a single oversight letter in the last 4 years. So Secretary Walsh thank you for being with us today and thank you for all that you have done in your career to protect workers and ensure opportunity.

And thank you also for your earlier comments regarding the President's commitment to urgently passing a \$15.00 minimum wage. I represent Seattle, the first major city in the country to pass \$15. I was on that Committee that facilitated that passage, and I'm also a proud lead sponsor, along with Chairman Scott, of the Raise the Wage Act, a bill that the House has passed, but we must find a way to immediately get this passed in the Senate and signed into law by the President.

So I hope you and the President will use all the powers of the White House to get this done immediately along with the PRO Act, another bill that I'm proud to be a lead sponsor of. Secretary Walsh I also know that we share a commitment to protect the two and a half million domestic workers who care for our children, elders, people with disabilities and our homes.

I'm aware that you endorsed the Massachusetts Domestic Workers Bill of Rights when it passed in 2014, and now despite high demand for these workers they have continued to be excluded from the basic protections of the Fair Labor Standards Act and are among the lowest paid with nearly 90 percent getting no benefits and many vulnerable to abuse.

These workers are serving on the front lines of the pandemic and provided critical care, allowing people with disabilities and seniors to avoid congregate settings that frequently saw high rates of COVID-19 infection. But this critical workforce has shrunk by 280,000 workers at the beginning of the pandemic despite an increasing need for homecare services.

I'm very pleased that the Biden administration has proposed investing \$400 billion to expand the home care workforce. Can you speak from your experience both as mayor and now as Secretary of Labor to the importance of this investment as critical infrastructure, and the role of the Department of Labor in expanding this workforce and improving the recruitment, retention and advancement of this critical workforce.

Secretary WALSH. Thank you, Congresswoman. I could speak I guess at different levels, but I'm just going to talk about this last year. Around March 2020 in Boston and in Massachusetts and throughout this country and Seattle as well I talked to the Mayor Durkan at the time. She told me to be prepared because what's going to the nursing homes in Seattle hadn't hit Boston yet, and she told me was coming.

So we had an opportunity to go into those facilities and provide PPE for healthcare workers and those domestic workers working in those healthcare facilities taking care of our older fragile adults. And they had to go to work every day, and often times when they

went to work, they didn't have the equipment nor the material they needed.

They were underfunded, underpaid. They take care of our most vulnerable loved ones and our own families, our own fathers and mothers and grandfathers, and grandparents. So when you think about it the investment that President Biden wants to make into that critical industry as you know that 400 billion dollars is not just in the facility, but it's also in respecting the worker and raising their wages and give them opportunities to earn more money.

Many of those folks that work in that industry that's their second or third job, and we entrust them with taking care of the most precious people in our lives, so and also in the community I just want to read a couple stats here if you don't mind. 87 percent of the home care workers are women. The majority are women of color.

37.4 percent African-American, 25.4 percent are Latino, and 5 percent are Asian. The median age of the home healthcare worker is over 46 years of age, 30 percent are 55 and older. If you look at the pandemic numbers the communities that get hit the hardest with the highest infection rate, the black community, the Latino community.

If you look at the people that had the largest loss of life, people over the age of 55. The same people that we had working in these industries were taking care of our loved ones. So there is no question in my own personal experience in the need for the care economy. I know we want to build new bridges, sorry I'll stop, go ahead.

Ms. JAYAPAL. No, no thank you.

Secretary WALSH. I'm on a rampage there.

Ms. JAYAPAL. No it's so great to hear you completely support it, but I wanted to say that I'm a lead sponsor of the domestic workers bill of rights in Congress, and of course my co-sponsor last Congress, now Vice President Kamala Harris. The President has said he wants to sign this bill into law. I'd like to ask for your help and support in continuing to push for a Federal standard that would reverse domestic workers' exclusion from the Fair Labor Standards Act and provide workers with the rights and protections.

Can you assure me that you'll do everything you can to help me get this signed into law and get those protections for domestic workers across the country?

Secretary WALSH. I have advocates in Massachusetts that are pushing your bill. They're pushing me to support your bill. So I don't have to support your bill, you have my support. I will do what we can. This is an important piece of legislation.

Ms. JAYAPAL. Thank you so much Secretary, I yield back Mr. Chairman.

Chairman SCOTT. Thank you. I see Mr. Grothman has joined us. The gentleman from Wisconsin Mr. Grothman recognized for 5 minutes.

Mr. GROTHMAN. Yes thanks. I'm going to lead off by talking about a little different issue. Are you familiar with the 14 C certificates and sub-minimum wage?

Secretary WALSH. Yes.

Mr. GROTHMAN. There have been proposals out there including the general minimum wage bill that I think would be devastating

to work fairs and the people with different abilities. I think there is some misinformation going on around there. Have you ever had an opportunity to tour these work centers in Massachusetts or otherwise?

Secretary WALSH. Sorry yes, I have, I have. I have one in my district. I actually brought a facility from Quincy, Massachusetts into called Work Incorporated.

Mr. GROTHMAN. OK. Did you have a positive experience?

Secretary WALSH. Very positive.

Mr. GROTHMAN. You are aware that if they got rid of the 14 C and say everybody has to make \$15.00 an hour that you in essence put these out of business, correct?

Secretary WALSH. Actually the facility I was talking about in Boston was paying the minimum wage to the people because they were working basically on contracts, State, city and Federal contracts. So I think when the bid the work they bid it at a higher wage rate for the workers. But I know what you're talking about in the other places.

Mr. GROTHMAN. Do you understand the problem?

Secretary WALSH. I do understand the problem, and I know that there's lots of different opinions and conversations on this as far as what should the worker doing the same work as somebody else in the same field with different skill be paid a different rate. I get the premise of it yes.

Mr. GROTHMAN. Would you make a commitment to see maybe in another State of these work centers that does rely on the sub-minimum wage?

Secretary WALSH. I absolutely want to go to a tour, absolutely no question about it. I would be willing to go and tour a place.

Mr. GROTHMAN. OK thank you much. Next point I want to bring up is I hear from my employers a lot of people sitting on the sidelines because of the unemployment benefits right now. In essence, people could make \$30,000.00 a year not working. And examples of people saying I'll take a job, they don't show up, that sort of thing.

And of course, that's not the only benefits you get. Do you believe we have people sitting on the sideline not only because of the additional unemployment, but because of other means-based benefits out there in our society?

Secretary WALSH. This came up earlier in the conversation. I don't believe that there are 8 million Americans that are collecting unemployment that are staying out of work because of a \$300.00 unemployment benefit. I don't believe that the case. I think that there's a whole bunch of issues around the 8 million people that are out of work today, and some of them why are they not back at work and some why they are going back to work.

I think that we've seen over the last 4 months as I mentioned earlier, I apologize for repeating myself, roughly 540,000 people going back to work over the last 4 months. We've seen gains in the system as far as going back into the workforce. I think in the coming months we're going to see more people going back into the workforce.

We saw the two largest gains in the last 2 months in hospitality. I don't see, I think if there are reasons people aren't going back in the workforce it's lack of childcare, it's school still being hybrid, it's

people that haven't been vaccinated. People are doing, taking care of their loved ones. They have medical reasons for not going back.

But I don't believe that \$300.00 is keeping the entire 8 million people out of the workforce.

Mr. GROTHMAN. Well I'm not saying the entire 8 million. It might be 4 million, but we would acknowledge that if you're paying people \$30,000.00 to \$35,000.00 a year not to work, a given segment of people will say fine, I'm not going to go to work.

Secretary WALSH. Yes, I don't believe that we're paying people not to work. I think we're paying people. We're trying to support people's livelihood during a pandemic, and I honestly feel that way. I've seen it. I know I'm in a different role today as Secretary of Labor, but I saw it on the ground as mayor of the city of Boston.

I saw the impacts of COVID-19, what they had on the workforce, what they had in businesses, small business, so you know I do feel as a country we have to keep front and center. And I'm not saying this just to you Congressman, but we have to recognize we're still living in a pandemic, and it didn't just disappear.

So I think it's important that we continue to support the American workers. I would love to see everyone get back to work. I want to see that happen. That's the reason for this hearing today. The WIOA funding is to get authorization to invest in workers. That's what I want to do.

Mr. GROTHMAN. OK. I don't want to go too much over in education here, but I do think we have a problem in which a lot of people are spending time getting an education, but that education is not leading to a job, and eventually what I find in Wisconsin be it the trades, be it what you would call community colleges, people are getting the 4-year degree and when they're 28 or 29 years old their reservicing at community colleges to learn how to get a different skill.

Do you realize this is a problem and your position to weigh in can make sure that people are not getting an education that is not a value?

Secretary WALSH. No I think that well I think that I know my mother and father would always say this. A college degree is important to get, but I think that the American jobs plan is going to be focusing on how we retrain workers for the jobs of today. I have friends of mine; I went to school for political science. I don't know what that degree got me.

I ended up running for public office and won, so I guess it worked out for me, but I definitely think that we have to be thinking about investments in the American Job Plan, how we retrain and reskill workers to get into industry. And I just want to thank you too, I was in Wisconsin last week. You have a beautiful State.

We drove around. I went to some job fairs in Madison and Milwaukee. You have a beautiful State there.

Mr. GROTHMAN. Thank you much.

Chairman SCOTT. The gentleman's time has expired. Next is the gentleman from New York Mr. Morelle.

Mr. MORELLE. Thank you, Mr. Chairman. Thank you for holding this important hearing, and Mr. Secretary I have not had the privilege, but I've heard so much great things about you, so thank you for your service and thank you for being here this afternoon.



Unfortunately, I'm a little late to this meeting due to a hearing on the Budget Committee on which I serve on the President's proposal, so I apologize if some of these questions have been covered, but if you'll just indulge me. When I meet with local businesses in my district, I represent Rochester, New York, I regularly hear that the greatest challenge is finding skilled labor to fill positions ? sort of along the set of skills ?

from lower skills to higher skills, but skilled workers, and I don't think I need to tell you this, are the backbone of our economy. Apprenticeships provide a good opportunity to grow and expand access to the workforce. My dad was a Member of Local 13 Plumbers and Steamfitters. They do pneumatic controls and went through an apprentice program out of high school.

And the success of apprentice programs is well established. I'm sure I don't need to tell you. According to your own department, 94 percent of apprentices are employed after completing their apprenticeship programs earning an average starting salary of \$70,000.00.

So apprenticeships clearly set workers on a path to a rewarding and most importantly, sustainable career. It's essential that we make the necessary investments to bolster our Nation's apprentice program. So could you talk a little bit about what you view, and what your vision is from the Department of Labor currently working on ways to expand, and any plans in the future to enhance apprenticeship opportunities?

Secretary WALSH. Yes thank you. Thank you, Congressman. First and foremost, I think that you have brought up an important point here, and almost every Member has brought up when you talk about job training and jobs not being filled and skilled workers.

It clearly shows that we have had a lack of investment in apprenticeship programs, and workforce development programs in our country for a long time. The American Jobs Plan, President Biden's plan is to invest 10 billion dollars over the next 10 years into creating two million new jobs in our country.

Those jobs can be retrained workers, the previous Congressman spoke a moment ago about people going to college, getting 4-year degree and not being able to work. This is geared toward them. The Ranking Member spoke mentioned job corps earlier today. This is geared toward people that go through job corps.

This is geared toward people in Rochester. This is geared to people in Wisconsin, people in Seattle, all across the country. So when we think about these investments, we need to be really cognizant and intentional about making sure that these investments hit the street.

I would also say when you asked the question about the Department of Labor, I would also say that we have an obligation to work with employers as well. Employers around the country to find out where these skills, what skills are needed and how do we pair people up with jobs?

So this isn't just simply a job/training program that we're throwing money at a situation. This is bringing employer partners to the table and working with everybody at the table moving forward.

Mr. MORELLE. Well I couldn't agree more with you, and you make some really important points as it relates to employers. I know the administration has endorsed the National Apprenticeship

Act which I was proud to lead the rule on the floor, and which I strongly support. We passed it in the House earlier this year.

Could you discuss the importance of the legislation and how the Department will be able to improve the administration of apprenticeships, both existing ones, pre-apprenticeships, and those in industries that typically don't have apprenticeship programs?

Secretary WALSH. Yes you know first of all you know the President has been clear that he supports a bipartisan approach to real reform, so I just want to start with talking about that, which will create and expand a venture to apprenticeships and youth apprenticeships, and pre-apprenticeships. The Department of Labor before me, meaning since January and now with me and supports the goal of modernizing comprehensive apprenticeship systems outlined in the Bill 447 and the National Apprenticeship Act of 2021.

I look forward to working with Congress and all of you to achieve this important reform of registered apprenticeships and national apprenticeship systems. I think again it's one of the best things we could do for the future American workforce.

Mr. MORELLE. Well very good. I appreciate your leadership on this. As a die-hard Celtics fan maybe I can invite you to Rochester and we could talk about their fortunes and also talk a little bit about apprentice programs and how we can continue to further the agenda of the Department. With that Mr. Chairman, I will yield back.

Secretary WALSH. Thank you sir. Our poor Celtics had a tough ending.

Chairman SCOTT. Thank you. The Secretary has agreed to be with us long enough for everyone to have five minutes, but he needs a break at 2:30. We have time for one more question before the ten-minute break at 2:30, so we'll recognize now the gentleman from Utah Mr. Owens.

Mr. OWENS. Thank you, Secretary Walsh. Before I segue into my question about electronic delivery, I'd like to share the concerns of my State of over 250,000 small business owners here in the State of Utah. That number of small businesses represents 97 percent of all Utah businesses. It's also a number that represents with 50 percent of employees in the State here in Utah.

The numbers in January 2021 show that Utah is a leader rebounding from the pandemic, less than 3 percent of employment. We are a State that takes pride in work. The No. 1 concern in Utah is as reflected in our numbers showing us that our government using revenue generated from our taxes is now paying small business employees \$17.00 an hour to stay at home and not work in businesses that can only afford to pay \$12.00, \$13.00, \$14.00, \$15.00 dollars per hour.

There are many in my State who believe that this is a sideways effort by the Biden administration to force small businesses to pay what Congress could not force them to pay through legislation of \$15.00 per hour.

I want to echo my colleague's request that it makes sense that your Department should never ever put in place policies that purposely hurt and kill businesses of entrepreneurs. Enhanced unemployment payments should never ever be another option, yet it shows real time data shows what my State is feeling.

Earlier you said if you look into, the data results of states that ended enhanced unemployment and those who didn't. Does that mean that you not getting the data is an option?

Secretary WALSH. No. Nobody has ended \$300.00 yet.

Mr. OWENS. Yes that end on the 26th of this month here in the State of Utah. So we will have time to see the difference when that ends. And so my question is, is it an option not to get the data to show the difference in those two choices?

Secretary WALSH. No. I mean I think that if when it ends, when and if it ends in Utah, if you have data, I would love to see it.

Mr. OWENS. OK good. Well 26 states across the country are ending it. And again, Utah will be ending June 26, so we should have that date and if it shows what we're feeling I hope this will never be another discussion in terms of how we get our country back.

So I want to turn the page really quick. Last year the Department of Labor issued a safe harbor rule that allowed for default electronic delivery of retirement plan documents. Before using this safe harbor, plan sponsors were required to send a one-time paper notice to plan participants notifying them of electronic delivery.

Plans using this safe harbor also allow participants to opt into paper copies at no cost to them if they prefer paper. This 2020 rule was finalized after it had garnered support from a broad range of retirement savings to stakeholders, including several union pension funds. The shift toward e-delivery allows for cost effective and convenient access to retirement benefits information.

In fact, plan participants with e-delivery at higher levels of engagement with their investments and higher contribution rates, possibly impacting their retirement options. This 2020 e-delivery rule is a balanced approach that contains important consumer protections and harnesses the ability to electronic communication, to increase engagement and retirement averages at a lower cost.

Would you agree that the increase in online engagement by a plan's participants has a positive impact on retirement preparedness?

Secretary WALSH. I can't answer that because I'm not sure. If you would give me some opportunity to look into it and to see if that's the case, I'll look into that.

Mr. OWENS. I would really hope you would do that. And also let me just ask you this. And you might have to look into this again, but I understand the Department is also undergoing the impact of the 2020 rule on seniors and those in the rural areas as required by the Conciliation Appropriation Act, CAA. This report is due at the end of the year.

Do you have any idea on this whether you will be able to meet that statutory deadline at this particular point?

Secretary WALSH. Congressman you clearly did your homework, and I didn't, so let me get back to you on that one as well.

Mr. OWENS. I appreciate that, and I totally understand. So I want to thank you again. I'd like to yield my remaining time to Ranking Member Dr. Foxx. Thank you so much.

Ms. FOXX. Thank you, Mr. Owens. Mr. Secretary we have noticed that you have to get back to us on a lot of issues, and we'll be looking forward to that. I do have one quick question, and maybe pos-

sibly sort of a guidance. Earlier you made the comment that some people are on their way to college, and some people are on their way to a career.

What in the world do you think people going to college are getting, or are looking forward to? They're looking forward to a career, or are they looking forward to contemplating their navels when they graduate?

Secretary WALSH. Well what I was referencing, first of all this is my 78th day on the job, so I'm still learning as I move forward, just to put in the record. And what I was talking about was in high school not every person graduating high school is on their way to college.

They have obstacles and barriers to get there. They might have financial obstacles. Some aren't prepared for college. I went to college for a year and a half, and I dropped out. I ended up going back to school later in life and got my degree at Boston College.

So when I was talking about pathways, when a 12th grader graduate high school if you're a school district you have to have that 12th grader on a pathway to college, which is meaning accepted to college or into college, or a pathway to a career. Is there an opportunity to get that young person to an apprentice program or into a career, so that that person doesn't end up in a job corps years later because there's no options for them? And that's what I meant by that.

Ms. FOXX. OK. We'll talk some more about how we can I think use better language to encourage people to think positively about where they're going, thank you Mr. Secretary.

Secretary WALSH. Thank you.

Chairman SCOTT. Thank you. At this time we'll give the Secretary a ten-minute break. The next questioner will be the gentlelady from Pennsylvania Ms. Wild when we reconvene in ten minutes.

[Break]

Chairman SCOTT. The gentlelady from Pennsylvania Ms. Wild.

Ms. WILD. Thank you so much Mr. Chairman, and thank you Secretary Walsh for your time today. It's great to see you again having just seen you about a week ago when you took time to visit Pennsylvania's 7th District, my district, and we really appreciated it.

As you know, our district really highlights the opportunity envisioned by the American Jobs Plan to rebuild our economy with a made in America grit, and to create good family sustaining jobs, and I just think that your presence in our district as the first cabinet secretary of this administration to PA-7 was really important.

I just want to start with a quick question and maybe quick. Can you provide us with a timeline for further action on a COVID-19 related emergency temporary standard as well as offer any insight on how your department might incorporate evolving public health guidance into such a standard?

Secretary WALSH. Thank you Congresswoman and I enjoyed the trip, I really did. And thank you for that. I had a great time and I've been talking about it ever since, especially the tour of the old steel mill. The temporary standard will be posted tomorrow, the emergency temporary standard will be posted tomorrow.

It's on hospital healthcare workers and they'll be showing guidance on other industries, and there will be a briefing I believe there's going to be a briefing tomorrow for all staff.

Ms. WILD. OK, wonderful.

Secretary WALSH. That was just I was able to announce that just at the beginning of this hearing, it just passed our wire and it's public.

Ms. WILD. I must have missed that. I'm so sorry but thank you so much. Moving on, in my district, we have two community colleges. Out of the 14 in Pennsylvania, two of them are in my district, and they are shining stars or jewels of the district as I call them.

They're great community partners. They support workforce programs that empower students with the skills that they need to succeed and contribute to our economy, and I believe that it's great that the American Jobs Plan outlines investment in a community college training partnership program, one informed by previous work on trade adjustment assistance programs, based in community colleges, as well as outlining a sectoral program, the sector program that builds on our previous work in the Workforce Innovation and Opportunity Act.

What lessons learned from these two prior initiatives, a sector program and a Workforce Innovation and Opportunity Act, and what lessons learned from those have informed the development of the proposals of the administration? And how could the Federal Department of Labor support the specific workforce development needs of our local communities and economies?

Secretary WALSH. Thank you. What informs the suggested investment is evidence-based practices and talking and seeing what's working. What supports the apprenticeship investment is evidence-based practices, but also success and outcomes of those programs, and I think that that's key.

I think that as we think about making these investments as you think about making these investments not only will the individuals that go through these programs be benefited from them to earn better wages against the middle class, but also your community colleges benefit by these investments by being able to administer these programs in a lot of cases.

And I think that we have to look at as a country a stronger partnership with our community college system. I've met with, think it's National Association of Community Colleges already. I have had one meeting. That's a natural area to go when we think about investments in communities because they're in communities. Most of them, a majority of them are in communities that people are underemployed in a lot of cases, or don't have opportunity.

So I look forward to working with you, but also with your colleagues and community colleges, no matter Democrats or Republicans. Let's strengthen the system. Let's make investments in people, and let's get people opportunities to get better paying jobs and opportunities for middle class.

Ms. WILD. Well thank you. We are completely on the same page about this. I believe the community colleges really offer a wonderful opportunity. So many in my community who are first generation college students go to the two community colleges, and the

community colleges have shown just a remarkable ability to adapt to changing needs by employers, in a way that 4 year colleges I don't think are geared to do.

So we see our community colleges steering new students into career paths, job paths where they are very much needed and likely to become quickly employed, so let's keep working on that. Thank you so much, Mr. Secretary. And with that I yield back.

Chairman SCOTT. Thank you. Next is my colleague from Virginia Mr. Good.

Mr. GOOD. Thank you, Chairman Scott, and thank you Secretary Walsh for being with us today. Secretary Walsh in any vetting process it's important to discuss a person's record and history of past relevant actions. I understand that Members of your own party are calling for your resignation, saying that you covered up allegations of domestic violence against your nominee for the Boston Police Chief Commissioner position, Dennis White.

According to reports in 1993 Mr. White allegedly verbally abused, slapped, punch and threw his niece down a stairway during a fight. In 1999 Mr. White allegedly threatened to shoot his daughter if she ever approached him while he was asleep. Also in 1999 Mr. White's ex-wife got a restraining order against him, and yet despite this clear history of alleged misconduct, you still chose to appoint him to lead Boston's police department.

Two days ago, the new acting mayor of Boston Kim Janey announced that she had fired Commissioner White due to these domestic violence allegations. Former Boston Police Commissioner William Gross sworn an affidavit that you knew about Mr. White's background when you selected him for the job, a claim supported by a local district prosecutor.

Last week in a sworn statement Mr. White said that he informed you that he had been the subject of a restraining order related to the domestic abuse allegations. Secretary Walsh, simply a yes or no question please. Do you assert that Mr. Gross and/or Mr. White lied with these sworn affidavits and sworn statements?

Secretary WALSH. Well first of all Congressman thank you for bringing this up. I appreciate it because nobody from my party the democratic party has asked for my resignation. I was not aware of these incidents when I appointed Dennis White as Commissioner of Boston. If I had known that, that would not have happened, I would not have appointed him.

Mr. GOOD. So excuse me sir, you're asserting that Mr. White's sworn statement said that he had informed you that he had been the subject of a restraining order related to domestic abuse allegation. You're saying that Commissioner White is lying with that sworn statement?

Secretary WALSH. Well I'm not sure. I'd have to go back and look at the sworn statement in the context that it was spoken and written. It was not that clear.

Mr. GOOD. OK how about with respect to Commissioner Gross's sworn affidavit that you knew about Mr. White's background when you selected him.

Secretary WALSH. From what I understand Mr. Gross's sworn affidavit said that there was a recommendation, a file reviewed, and

never clearly stated that I got the file, and I never received the file on Dennis White.

Mr. GOOD. Given the fact that you seem to ignore the critical information in appointing a person with a documented violent history to the highest rank of the police department in Boston, do you feel like you should resign?

Secretary WALSH. I didn't ignore anything. I wasn't aware of the situation until after. Until quite honestly, after I appointed him, and it was pointed out to me in the newspaper.

Mr. GOOD. Secretary Walsh the American people deserve to know what's happening in their government, and given your history as mayor of Boston I think it's appropriate to ask you if you're aware of any domestic violence perpetrated by your staff during your time and leadership at the Department of Labor? And if there were, what actions would you take?

Secretary WALSH. I would take immediate actions if I knew, if anything came to light that I understood I'd take immediate action.

Mr. GOOD. And so if someone on your staff.

Secretary WALSH. Just like I did in the situation of Commissioner White. As soon as I found out then immediately I placed him on paid leave and hired an outside investigator to do an investigation on an internal investigation and an external investigation that did an investigation that led to his dismissal by the current acting mayor.

Mr. GOOD. Thank you, sir. One would hope that a President would seek transparency and put capable people in leadership roles in his administration. However, Mr. Biden won't admit to the corrupt dealings of his own son Hunter, his failure to set high standards for his cabinet should come as no surprise.

Secretary Walsh why should the American people trust an administration that has a history of covering up domestic violence and questionable actions with foreign entities by the President's own son?

Secretary WALSH. I'm not going to comment on that. It doesn't justify an answer.

Mr. GOOD. Commissioner Walsh, or Secretary Walsh, in the Labor Department your mission should be to put American jobs first. How do you defend the Biden administration using its first days in office to fire thousands of Americans by shutting down the Keystone Pipeline, and simultaneously endorsing Russia's Nord Stream 2 Pipeline?

Secretary WALSH. What I do support is President Biden's American Rescue Plan that is getting millions of Americans back to work. What I do support is President Biden's American Jobs Plan, American Families Plan.

Mr. GOOD. Excuse me sir do you support him shutting down the pipeline and approving the Nord Stream 2 Pipeline?

Secretary WALSH. Again I think that the President made it very clear when he unveiled his climate goals about creating opportunities and equity in jobs in those areas to replace a new industry in our county to create opportunities in that industry.

Mr. GOOD. Thank you, sir my time has expired. I yield back Mr. Chairman.

Chairman SCOTT. Thank you. The gentleman's time has expired. The next is gentlelady from Georgia Mrs. McBath.

Mrs. MCBATH. Thank you so much Mr. Chairman and Ranking Member Foxx for convening this hearing today. And thank you Secretary Walsh for joining us this afternoon and I will apologize on behalf of my republican colleagues. You were not brought here today to answer innuendo in this kind of questioning. You were brought here today to talk about the budget and agenda for the Department of Labor.

And I will make sure that I'm asking those very kinds of questions, so I do apologize. It is not meant for you to be here being questioned and you know, and innuendo, and all these kinds of accusations being made toward you. But thank you so much for joining us this afternoon.

I had the benefit of being able to hear from you just recently as you addressed the Democratic Women's Caucus earlier this week, and the work at the Department of Labor is vital to continuing to ensure that all working families in American can lead more productive and safer lives.

And your record as the mayor of Boston and your work with the trade unions and the business community and every day working people leaves you with a unique perspective on the American workforce. And the work still needed to ensure that every American has access to middle class, and also you know middle class values and the American dream.

And our Committee right here has been focused on that very work that you are ensuring happens, whether it be rebuilding America's workforce, or ensuring that workers have adequate safety standards. However, I'd really like to kind of transition today and talk a little bit more about the need for comprehensive national paid leave, creating a sustainable workforce, a framework for paid family leave and medical leave, but these programs which are essential for building a fair and equitable society.

And the past year has definitely shown us that no one is immune to the need for care for their child or their loved one, and no one should lose their job simply because they needed to show their loved one that same kind of kindness that you know we all would want in a similar situation.

And the pandemic, you know COVID-19 definitely did expose the costs and the consequences of gaps in these very important protections. Expansions of these benefits is vital to ensuring a safe productive and healthy workforce. I have just one question for you sir.

Secretary Walsh, please just expound upon what is the economic benefit to workers, their families, and the overall economy of a national comprehensive paid family and medical leave program. Thank you.

Secretary WALSH. Thank you very much Congresswoman, and I just want to begin by saying no need to apologize. I appreciate your words and I thank you for that, but I appreciate that. One thing to answer your question that studies have showed workers lose about 22.5 billion dollars in wages annually due to lack of paid family leave.

And when you think about the impact that that has on our economy, access to paid leave increases labor force participation for



women, and paid leave reduces racial disparities and wage loss. So you think about those three things I just said and what the impact would be for paid family leave to the American economy would be profound in some ways, so I don't know if profound is the right word, but I'm using profound.

It would be a great way of moving forward. When you think about the impacts of COVID-19 on the economy, the numbers are high. 4 million women have been pushed out of the workforce. When you look around the country and you look at cities and towns across the country often in a lot of cities and towns the wage earners, the bread winners in families are women.

The head of the household is women. So having a strong comprehensive paid family program works. When I had a chance to meet with as I mentioned a little earlier, I met with some companies. Levi's was one of them. They talked about the importance of paid family leave in their company and what it meant for the workers in their company, and it meant for the productivity in their company.

And all of the signs for paid family leave are positive. There's no negative signs. So when we say paid family leave or medical leave, there's no negative signs in this.

Mrs. MCBATH. Thank you very much and I release the balance of my time.

Chairman SCOTT. Thank you. The gentlelady's time has expired. The next gentlelady from Michigan, Mrs. McClain.

Mrs. MCCLAIN. Good afternoon Mr. Secretary. First, I want to thank you for being here today. I do appreciate it. I have a limited amount of time, so I want to ask you just three really very simple questions. Yes and no answers are fine, and honestly, these are not trick questions.

Would you agree that ensuring our Nation has a strong labor market is really paramount for our recovery?

Secretary WALSH. I completely agree with you.

Mrs. MCCLAIN. Thank you so much. And then historically economies that have millions of job openings, typically that would mean low unemployment would follow correct?

Secretary WALSH. You're right correct. In a normal circumstance when we're not dealing with a pandemic, yes.

Mrs. MCCLAIN. Thank you. My third question is would you agree that it is best to have American citizens working and making a positive contribution to our economy, rather than receiving unemployment benefits?

Secretary WALSH. As a former mayor absolutely. I wanted to get my unemployment rate as low as possible, and I wanted to create as many good jobs as possible in the city of Boston in my time there.

Mrs. MCCLAIN. Thank you so much. I'm glad you agree with me on these basics. Now I continue to hear from employers and businesses in my district that they are unable to find people who are actually willing to work due to this administration's enhanced unemployment benefits.

You testified that you agreed with me that it is best to have Americans working rather than relying on the government. The facts are clear that the enhanced unemployment benefits are hin-

dering our recovery, especially here in my district. So I ask you when, and I am looking for a timeframe, when will it be necessary to end these benefits if the recent jobs reports aren't enough of a sign?

Secretary WALSH. Let me thank you, I'm just writing some notes down. First, thank you for this line of questioning. I think it's an important conversation to have, and I think we need to continue to have this conversation.

Mrs. MCCLAIN. It just seems like there's a reverse, or we're missing cause and effect.

Secretary WALSH. Well I think that just you know one thing I think we have to be again remain cognizant enough we are still in or coming out of a global pandemic that the likes of which we haven't seen in the United States of America in 100 years. In saying that the benefit, the unemployment extension benefit expires in September.

And when you look at President Biden's Recovery Plan, we've added in the past 4 months over 2.1 million jobs have been added to our economy. And as we think about, as we see the connection between the CDC release, or reducing some of the restrictions on masks, and restrictions, as we see states and cities around the country reduce and cut back on some of those restrictions on COVID, we're seeing more and more people enter into the workforce.

And as we start seeing childcare facilities open, and schools open, and hopefully summer camp's open, that's going to be key. We're going to see more and more people go back into the economy.

Mrs. MCCLAIN. And are you optimistic that at the end of the September these enhanced benefits will be done?

Secretary WALSH. Yes, I mean they expire then. They do expire then.

Mrs. MCCLAIN. OK.

Secretary WALSH. And I'm also hopeful and optimistic that our economy, and more people will be working by the end of September.

Mrs. MCCLAIN. Yes, I mean that's my, we're on the same sheet of music. I mean we have 9.3 million jobs, and we don't have people to fill those jobs. My concern is if we don't keep the businesses open, by the time the enhanced unemployment benefits run out and expire in September, they won't have any businesses to go back to work to, so I think you and I are on the same sheet of music.

By why do you and President Biden remain so committed to the unnecessary spending of the taxpayer dollars on these benefits? Do you really think they're needed?

Secretary WALSH. Yes, I do honestly think they're needed. I really do.

Mrs. MCCLAIN. Even with the numbers and the data we have?

Secretary WALSH. Well the numbers and data is how people read them quite honestly, and I think that there's still a lot of pain in this country. People have lost their job. People have lost the industry they worked in. Many of the restaurants that are looking for workers now, about 25 percent of our restaurants roughly, at least

I could speak for Boston. I can't speak for the country, are out of business not because of not having workers.

Mrs. MCCLAIN. Sir I think you and I are close on this. One last question before I yield my time back. Am I hearing you correctly that you will commit to this Committee to ending these unnecessary benefits as soon as possible, hopefully in September?

Secretary WALSH. No I won't commit to ending them as soon as possible, but they expire in September. So for all intents and purposes in September they expire, so I guess you could say at that point they end.

Mrs. MCCLAIN. Thank you for time sir I yield back.

Secretary WALSH. I appreciate it thank you.

Chairman SCOTT. Thank you. The gentlelady from Connecticut Ms. Hayes.

Mrs. HAYES. Thank you, Mr. Chairman. Thank you, Secretary Walsh, for being here today and for your testimony. In Connecticut and across the country, and even in this hearing today, we've heard a lot about underemployment and jobs that are unable to be filled. I think where we disagree is on some of the reasons.

What I'm hearing from my constituents is that it's everything from childcare to low wages, to you know we keep hearing just belabored, the unemployment plus up, which is not the only reason that people are not returning to the workforce.

Yesterday a former Reagan official stated on Fox News, and I quote, "The poor, the minorities, the disenfranchised, those with less education, young people who haven't had the job experience, those people are not worth \$15.00 an hour in most cases."

So we are so far apart on where we stand on these issues, so I'm so happy to hear your support today for the \$15.00 minimum wage, and the fact that every person is worthy of a living wage despite their labor or contributions to the economy.

I have two questions today and I'm going to ask them both just so that I can yield the rest of the time to you to answer. I'm from Connecticut, so you have to know I'm going to ask you a question about registered apprenticeships. We need long-term strategies to support the creation of high-paying jobs for all workers.

Once such opportunity is registered apprenticeships. My question though is about pre-apprenticeships. I was a high school teacher and in high schools around the country we commonly refer to college and career pathways, or college and career readiness. That's an accepted term that everyone understands and that we deal with.

My question for you Secretary Walsh is how will the investments in registered apprenticeships that are called for in the Biden American Jobs Plan, help individuals afford to participate in these apprenticeships? We see so many of these programs that are unpaid apprenticeships, and for many of the children in my class they wouldn't have been able to access those opportunities.

And then my second question is there's another segment of the workforce that we haven't really heard a lot about. The formerly incarcerated who have long faced barriers to economic stability. How can Congress support the Department of Labor in your efforts to expand services for returning citizens to ensure they are not underemployed, or unemployed, and can become productive citizens?

Secretary WALSH. Thank you very much. First of all if I run over my time Mr. Chairman just stop me because this is an area that I'm pretty passionate about. In my time, in my whole lived experience whether it was a worker, as the head of the building trades, as a State representative, or as a mayor of Boston.

First and foremost your first comment you didn't ask me a question. \$15.00 an hour minimum wage is something that we need to advocate for. Every single American deserves it. Every single American deserves it regardless of their status, where they're from what their work history is. We need to make sure we put people on level playing fields, and that's what the President's intention is about, that's what my intention is about, and that's what we need to do moving forward.

And I think if you talk to most employers in America they would agree as well. As far as registered apprenticeships and pre-apprenticeships it's incumbent that we make sure that people that enter into those apprenticeships that they get paid No. 1, that they have an opportunity. We talked a little about Congressman Norcross asked me earlier, a little bit earlier, about the building trades.

Once you're in the apprenticeship program you're getting paid. We also have to be more cognizant and more intentional about creating opportunities for people of color and women to get into those building trades, into those pathway programs. I didn't see the TV interview by the Reagan official, but I'd be willing to be that the people that he was talking about never had an opportunity in their life to get into some type of apprenticeship program.

The people he labeled as people of color and not working. So that's what we need to do. We need to be more intentional about creating pathways. And then when it comes to formerly incarcerated, I will go one step further. Not just formerly incarcerated, but I think we have to do a better job in America of going to urban America, and going to see America where young people quit school, they're hanging on the corner, they're involved in activity, and they might be involved in the criminal justice system.

And how do we create pathways before they get incarcerated into apprenticeship and pre-apprenticeship programs? Because what a lot of people just need is an opportunity and a chance, and I believe in second chances, and I believe in third changes because I was given second chances in my life.

And I'm sitting in front of you as a person that was given a second and a third chance many times. So I certainly think we need to be more intentional about the work we do. The investments in the WIOA reauthorization, we have investments in apprenticeships, we have investments in work training, in workforce development, and we have investments in reentry as well.

So those dollars are tied into the WIOA reauthorization, so I hope that we can have the authorization in time quickly, so we can start to make those investments, including the American Jobs Plan.

Mrs. HAYES. Thank you, Mr. Secretary. You're a breath of fresh air. Mr. Chair, I yield back. Thank you.

Chairman SCOTT. Thank you. Next is Harshbarger, Miller, the gentlelady from Indiana Mrs. Spartz, the gentleman from Wisconsin Mr. Fitzgerald?

Mr. FITZGERALD. You're good thank you Mr. Chair. And thank you Mr. Secretary for hanging in there today. I know it's kind of a long process here. I wanted to just take maybe a 30,000 foot look at some of the issues that are you know somewhat similar to what's been discussed, but and I know you just mentioned again that you were a Member of the assembly, of the House in Massachusetts.

And I just came out of the Wisconsin legislature after 25 years, so I'm just newly elected in November to Congress. And in Wisconsin you know just like it is in many other states, unemployment insurance is sometimes set by kind of a non-partisan council.

So you've got labor, you've got management, they sit in a room, they iron things out, set the rate that employers will pay into the unemployment fund, and like I said I have a long enough tenure that when I was in Wisconsin in the State Senate, just like many of the other states when we hit a downturn in the economy in 08-09, that fund was in trouble because there were so many individuals that actually were collecting the unemployment insurance compensation.

We were able to fix that, and like I said in a non-partisan way, in a uniform way. They were able to fix that by tweaking some things related to unemployment. And then we were doing fine. We were doing fine right up until the pandemic. So you know what I find right now is that this is having a detrimental effect I think State by State by State.

And as you see these unemployment funds diminish, and I want to put it on your radar screen because I think we're going to find ourselves at a point in time, it could be 6 months, it could be a year from now, it could be longer, where suddenly it's going to be states saying, OK, you know we still need an unemployment fund in this State, even though you know the enhanced benefits are gone and COVID hopefully is being managed. It's never going away.

It's going to be managed. And you know this is going to fall I think squarely back on the Federal Government to try and figure a way out of this because you know the ways things look right now the economy is strong, but I don't know that you can go to a small business and say listen, we're going to have to increase the unemployment insurance compensation rate to fill the red ink that's probably going to emerge in a lot of these situations.

Secretary WALSH. Thank you, Congressman. I can't disagree with anything you just said. I will say this I spent 16 years in the Massachusetts House, and I was in like you in the legislature in 2008-09 when we had the recession. I was there in 2001 and 2002 when we had a dip in the economy as well. And you're right the rate was set by a bipartisan group of folks.

It was funded by the legislature and by businesses. I think that what we've experienced, and I don't want to be critical of any states, but what we're seeing is a consistent underfunding of the fund in certain states, and also this year the pandemic obviously came on 30 plus million Americans out of work literally overnight, Wisconsin, Massachusetts, all over the country people are applying for unemployment because their job was gone.

And when President Biden got elected, one of the first things he did in the American Rescue Plan was put a 2 million dollar invest-

ment there for us her at Department of Labor and ETA to take a look at the systems across the country and to make investments.

Now that 2 million dollars is probably not going to fix the problem that you pointed out that probably is going to happen, but what we have to do is come up with a reform of the UI system that works. In some states they have old technology they're using, in some states it's the benefit levels are all over the place.

So we really have to have a comprehensive unemployment insurance reform package here, and then we have to work with the states and the territories carrying that out. So again, everything you said, I'm not going to argue with anything you said. Some states have pointed out to me that their funds, they're in trouble because they're draining down on it and they don't have kind of a way to build those funds back up.

We also had the issue of fraud that came up, breaking into our system, so all of these issues you know if at the end of the day we a system have that's reformed and that works. A UI system that works for states, for people, for businesses, for employers, then we would have done our job. So it's incumbent upon us here at the Department of Labor to make sure that we work collectively with other states and territories to get this right.

Mr. FITZGERALD. OK very good. Mr. Chairman just really quick I want to put in a good word. I always try to talk about the tech college system, you know, I know it varies from State to State, but in a lot of instances it's been the one group of educators that have been nimble enough to try and respond to crises like we're having right now.

And so anything we can do for the tech colleges I think makes sense and is also going to be a great investment for the Federal Government. Keep your eye on the ball because I think that's another thing that's going to have to change very quickly, but thanks for being with us today.

Secretary WALSH. I agree with you there too, thank you.

Chairman SCOTT. Thank you. The gentleman's time has expired. Next is the gentleman from Michigan Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman. Thanks for your persistence, Mr. Secretary, and for fighting for justice for American workers. It's great to see you. And I certainly want to followup on the words of my colleague there, your buddy Secretary Cardona was in my district yesterday at a community college.

And the President's plan and our bill—The America's College Promise Act—two years of free community college for everybody is such a cornerstone of what we've got to do, so I appreciate your leadership on all of that.

Let me try to ask you a couple things that people haven't talked much about. You know the Federal Government maintains a lot of purchasing power right, be it numerous programs throughout the executive branch. And I strongly believe that the Federal Government should not provide taxpayer money to employers who do not respect their workers or shift jobs around.

How can we ensure that money spent goes only to entities that implement and abide by strong labor protections? And how does the Department of Labor coordinate with other Federal agencies in that regard? And are there ways that we can make interagency co-

ordination stronger, or labor protections for all of our workers who are working on these Federal dollars that we gave them.

Secretary WALSH. Yes thank you Congressman. I mean I think one of the ways of doing this across cabinet is President Biden's Buy American Plan. And how do we make sure that we make those investments not just in the contracts that are given out, but how do we make sure there's equity in it?

We are working internally here at the Department of Labor on the equity executive order the President signed. We want to make sure that not only are workers paid a fair wage, but it's also that we increase the amount of spending that's in businesses of color, women, veterans-owned businesses, so we can actually create more equity there as well.

So I think that this is going to be conversations that will be ongoing as we continue to move forward here with the Department of Labor and with the administration.

Mr. LEVIN. Outstanding. I hope we can you know advance also the workers on Federal contracts are free to form unions, you know, without interference and all that. So I really look forward to supporting your work on that. And let me mention also the role, the crucial role of ILAB in the USMCA situation.

Allegations of vote tampering came to light during a union election in General Motor's assembly plant in the Mexican State of Guanajuato. And subsequently, the Mexican Labor Ministry had to invalidate that election, and the U.S. filed a complaint under the U.S. embassy rapid response labor mechanism, which is a new thing.

This is one of a number of problems with Mexican implementation of USMCA's labor provisions and the ILAB, the International Labor Affairs Bureau, in DOL has to take responsibility for ensuring our trading partners meet their labor obligations, but especially this new power under USMCA.

So I know you've appointed a person to run that, and I wonder if you could speak to your efforts with the U.S. trade representative to ensure that Mexico meets its labor commitments under USMCA, and whether you've had contacts with your counterparts in Mexico on this, and just basically anything we can do to support your work on this because it's super important that those new labor provisions succeed.

Secretary WALSH. Yes, no thank you for that. The ILAB regularly engaged with the Mexico's Minister of Labor, and others in Mexico to support the compliance with the labor commitments to the USMCA. Mexico's new labor institutions have started to resolve disputes and register unions, and collective bargaining agreements.

Obviously, the pandemic has worsened the challenge involved in Mexico's ambitious labor policy, but we're going to continue to work. In support of ILAB, the USMCA's mission they're working to hire new staff from monitoring enforcement including five labor attaches in Mexico.

So that's one of the first meetings I had after I got sworn in was with ILAB, and they were talking about the attaches, and we had two on the ground, and there was three that weren't, and it makes a big difference, particularly with a pandemic. So we're in the process right now I think there's a bit of a process hiring up, but we're

in the process of hiring, and I know it's been posted, and I think we're interviewing in there.

And ILAB was also awarded more than 80 million dollars in projects funding to support labor reforms in Mexico, so that's another important step that we take to reduce workplace discrimination, address child labor, forced labor, human trafficking and making sure to ensure other successes of efforts related to implementation of the USMCA.

So we're going to work closely with all of our partners here so that we can make sure that this is a successful relationship.

Mr. LEVIN. Outstanding. I'm glad you're there to drive all that forward, am looking forward to helping any way we can, and I think my time has expired Mr. Chairman and I yield back.

Chairman SCOTT. Thank you. The gentleman from North Carolina Mr. Cawthorn.

Mr. CAWTHORN. Thank you very much Mr. Chairman Scott, and thank you very much Secretary. You know I believe that these last 7 months have taught us anything throughout the Biden administration it's that the Biden agenda, the democrat agenda puts the interest of union bosses over the interests of union workers.

The Biden administration pro union boss agenda has been a death knell for the American worker in my district and across the country. With the flick of his cufflink bedazzled wrist, our monarch in chief has demolished 4 years of pro-worker, pro-business initiatives enacted by the previous administration, including updated regulations on joint employer status, independent contractors, industry recognized apprenticeships, religious liberty and union transparency.

Perhaps most striking is the current administration's callous disregard for industry recognized apprenticeships, which create a powerful employment pathway for young American workers. I believe that on February 19, 2021, President Biden rescinded the executive worker which created the IRAP program and asked the DOL to consider new rulemaking to reverse apprenticeship programs.

The gloves have come off. The blindfold is being ripped from the eyes of the American people. We are now seeing that democratic policy where it truly is, a full-scale war on the blue-collar worker. I will not be silent while thousands of blue-collar workers in my district are questioned and meet the boot heel of white-collar liberal lawyers here in Washington.

Secretary Walsh industry recognized apprenticeship programs combines workforce training with paid work component in an educational or instructional component, and results in industry recognized credential. It is the most cost-efficient way to give participants the chance to learn skills and make a wage in time.

In an industry where they will get a good paying job as soon as they finish the program. In 2021, a year from the last final rule, President Biden rescinded yet another one of President Trumps initiatives, the IRAP program.

My question for you is why were IRAP's rescinded before even having the chance to show how valuable they are.

Secretary WALSH. Thank you, Congressman, for your comments and question. I'm concerned that the IRAP's are a duplicate system that doesn't require worker protection and quality standard of reg-



istered apprenticeships. And I think that while our review is currently ongoing, I just want to reiterate my commitment I made during my confirmation process, that we'll ensure that voices of all industries are heard, including and obviously we have a hearing today, I've love to talk to you more outside of this hearing.

The rulemaking process that we do regarding IRAP's will be transparent. We're going to go through public notice and comment period, and there will be an opportunity for people to explain how successful they are and what the benefits have been, and the Department intends to issue spring regulatory agenda shortly.

Mr. CAWTHORN. Right, but as I understand with you all rescinding the final ruling on this, it does keep in place the ongoing IRAP program to people who are already enrolled in this program, but how does that help people in my generation, the new workforce? People returning from the military, people who are just graduating college, people who are just entering the workforce from high school, how does that help us in the future, and why are you halting that?

Secretary WALSH. Because the President in the American Job's Plan is making a 10 billion dollar investment over 10 years to create 2 million new apprentices, and the folks in your generation and older generations, younger generations, will have opportunities in those generations, and those are long-standing apprenticeship programs that show benefits and success over the years.

Mr. CAWTHORN. Thank you very much Secretary and I yield back one more time.

Chairman SCOTT. Thank you. The gentlelady from Minnesota Ms. Omar, is she on the present? The gentlelady from Michigan Ms. Stevens. Ms. Stevens we're having trouble hearing you. It didn't look like you were muted.

Mr. JONES. Hayley, do you have an external microphone possibly?

Chairman SCOTT. We're going to ask the staff to get in touch with Ms. Stevens to get her online, and then meanwhile we'll go to Ms. Leger Fernández, the gentlelady from New Mexico Ms. Leger Fernández.

Mrs. LEGER FERNÁNDEZ. Thank you very much Chairman Scott, and thank you Secretary Walsh for addressing you know how the American Rescue Plan has already created more jobs than during any other presidency, and how we'll build on that with the American Jobs Plan.

Loved hearing what we plan to do with the apprenticeships and the work with community colleges, to just name a few of the two initiatives you've talked about. Secretary Walsh I want to focus on how the Department of Labor can help two specific groups ? our artists harmed by the pandemic, and our fossil fuel workers as we transition to a cleaner economy.

As we discussed last week at the congressional Hispanic Caucus meeting the creative economy is essential to the U.S. economy, and especially in New Mexico, but at the height of the pandemic 63 percent of those in the creative sector were unemployed. Do you agree that creative workers as a group have been severely impacted by the COVID pandemic?

Secretary WALSH. Yes. As I said in the caucus the other day there's no question about it. And you know I saw in my city, but all across this country. Other than the extension of unemployment benefits, many people in the creative economy had nothing. They lost everything. There was no relief for their space. There was no relief for studios. If you had a studio, they had nothing.

So I absolutely agree with that, and when you think about the creative economy the impacts it has in our economy in a positive outweighs, I mean is astronomical as well in a positive way.

Mrs. LEGER FERNÁNDEZ. Thank you and I think you're right about—I love Amanda Gorman's poem where she calls upon us to repair our Nation right, that the power of that poem tells us a lot. So I am working on legislation to help the creative economy to address those kinds of things that will go under the Department of Labor where you'll consult with the NEA, and it's intended to put unemployed artists and creatives to work on those public art experiences for communities.

You know we recognized that back when we did the WPA coming out of the depression. We recognized that in New Mexico where we have a 1 percent of public capital funding for arts projects. You know, and those WPA arts are still inspiring us today. I would ask whether you would support a program like this to help get creative workers back into jobs for operating arts and programs to our communities.

Secretary WALSH. No absolutely. When you think about workforce boards across the United States, they're there to support workers and partners with employers and industries and jobs and regions, and so we have when you think about it we have it for our youth partnerships in Boston, and now we should be thinking about it a little differently when we talk about you know creative economy artists and independent folks that are working. I absolutely agree with that.

Mrs. LEGER FERNÁNDEZ. OK great. And now you know I'm going to turn to our transition. I really appreciate Congressman DeSaulnier bringing up the need to help workers as we transition to a clean energy economy. You know we don't have steel workers and boilermakers in New Mexico, but what we do have are the fossil fuel workers who helped supply the energy to our Nation for decades.

These workers are often rural, and in my State they're Native American and Latino as well. And I invite you to New Mexico to visit these areas. We go from creatives to our fossil fuel areas. But I did want to ask you how the Department of Labor planned to assist fossil fuel workers as we transition to a clean energy economy to combat climate change, and what we can do in Congress to help serve this workforce.

Secretary WALSH. Well first of all thank you for the invite and I look forward to getting to New Mexico. I really am looking forward to that. A little earlier I was asked a similar question, and I think there's two things. One is there's a major reauthorization in WIOA for veterans to be able to get into the clean economy if you will, and there's also job training, workforce development, apprenticeship programs as well for retraining.

I shouldn't say retraining, enhancing their skills of workers that understand the fossil fuel industry that can work into the new environmental industry. And I think that you know you don't have to train them, they already have the skills. What you have to do is expand their skills, expand their understanding of this industry.

So I think we have a unique opportunity right now at this moment in time in this country to really, with a President that is making major investments and willing to make major investments in this industry while we're able to do two things.

One is we're able to combat climate change, we're able to reduce carbon emissions, we're able to make our environment cleaner and safer and healthier for the next generation of young people, but we also get a chance to take the workers that are currently working in the fossil fuel industry, and other industries, and help them to be able to earn good living, good wages in the same industry that's converting our environment into a safe place.

Mrs. LEGER FERNÁNDEZ. Thank you so very much. My time is expired, and I yield back.

Chairman SCOTT. Thank you. The gentlelady from California Mrs. Steel.

Mrs. STEEL. Thank you, Chairman Scott, and thank you Ranking Member Dr. Foxx, and Secretary Walsh thank you for being with us today, such a long time. I started at 7 here in California and you know we are still on, so thank you very much.

Let me get just straight to the question. In California we've been seeing that ABC has to reclassify independent contractors as employees has been a failure. It limits, and in many cases prevents Americans looking for jobs from finding flexible options for work. It hurts workers. It hurts business, and it hurts consumers.

The blanket approach in California has proved to a disaster and is now riddled with exemptions. Following these policies it's guaranteed to cause more harm to workers at the national level. We saw a push for the California ABC test in the PRO Act, the Protecting the Right to Organize Act, and now you are on the record supporting the reclassification of workers who choose to be independent contractors.

Why would you continue to push for a failed policy that limits the flexibility and opportunity offered by independent contracting?

Secretary WALSH. So thank you Congresswoman for your concern. I know my home State of Massachusetts the ABC test has proven to be helpful, but misclassification of workers are deprived of a long list of legally mandated benefits and protections such as minimum wage, overtime pay, excuse me, workplace health and safety protections, unemployment and worker's compensation insurance, and the right to organize and collective bargain.

The policy of the Biden administration is to create and support good quality union jobs in the place with a union and strengthen workers power. A comprehensive solution to workers misclassification is a key part of that agenda.

The President strongly supports Protecting the Rights to Organize Act which would establish the ABC test, and in the National Labor Act we support a comprehensive approach to addressing this classification to protect workers, and we look forward to engaging with congressional leaders and stakeholders to determine the ap-

propriate path forward, and that includes I'd love to have a followup conversation with you after the hearing, not today, after the hearing, but within the next whenever you want in the next couple of weeks to talk a little bit about the experience that you've had in your district.

Mrs. STEEL. Thank you very much. Since I don't have much time then I want to move on to the second question that we need to ensure that there is a transparency in use of union funds. It's not just union funds, but other areas too. But for the specifically for the union funds, your agency just announced a proposed rule to rescind the T-1 form, which requires union trusts reach our organization such as strike funds, and apprenticeship programs to file their own separate financial disclosures.

Congressman Walberg and I introduced a Union

Transparency and Accountability Act to turn these transparency rules into law. Our bill would require the T1form, and LM-2 form which requires unions to disclose a name of any party buying or selling union assets over \$5,000.00 and more.

And LM-30 form which requires union officials to declare whether they receive any income or economic benefits from an entity that does business with the union and employs union Members to avoid conflict of interest.

With the recent scandals in the media why would you repeal additional and needed transparency. What message does that send to American people that you are rolling back transparency and union financial integrity? What misdeeds are being hidden from rank and file union Members and the American people?

Secretary WALSH. Thank you. Actually we're not rolling back anything that's hiding. The Department of Labor collects that information, has it. What the T-1 rule does was redundancy, was a second set of the same type of reporting. So there's nothing being hidden here, the reports still have to be filed with the Department of Labor, and we're collecting that information, that data.

It's a transparent process. The T-1 rule is just a second redundant employer requirement that really didn't do anything.

Mrs. STEELE. Really? You know what, I hope that you're going to read the rules, the bill that I introduced with Congressman Walberg and maybe in a while we can have a little more discussion about that, and thank you for coming out today and thank you and I yield the balance of my time to Ranking Member Foxx.

Chairman SCOTT. I think your time is already over, so there's no time to yield.

Mrs. STEEL. Thank you, Chairman Scott,

Chairman SCOTT. OK. Thank you. The gentlelady's time has expired. I understand that the gentlelady from Michigan is back on, so we'll recognize Ms. Stevens.

Ms. STEVENS. OK can you hear me?

Chairman SCOTT. I can hear you now yep, yep.

Ms. STEVENS. OK fabulous. Well thanks to the Secretary for this very informative hearing, and what an honor to be with you and just what an honest to God delight it is to have you in the cabinet role you are in. I'll just say it's early, but the ratings are out and you're doing an incredible job.

And I particularly coming from southeastern Michigan want to let you know Mr. Secretary, I love what I've heard today. I think that articulation of how little we are investing in workforce training and development in skilled trades is one of the best articulations I have heard.

I have asked every trade association, training group, you know, our unions, you know, and you have it distilled down, and have a direction and a vision aligned with the President, by the way, who actually wants to address the problems that have come up today which is a workforce shortage. As someone who has come out of manufacturing and has dedicated my career to the profession of getting people into skilled jobs, getting them on to factory floors connected to innovation channels, career growth and on.

I believe this plan is going to get us there. And so what I wanted to do Mr. Secretary while I'm privileged to be with you over this Zoom hearing today with our Chairman Bobby Scott is maybe tease out a little bit more of what we could do to get in front of some of these you know, build out these workforce development initiatives because I think getting more funding in there will do us right by addressing our workforce shortages, our skills gap, you know 2 million jobs projected in manufacturing, the technology sectors.

We've got this churn and burn going with the supply chain. We want to get people back to work, get them back to work safely. But have you thought about Mr. Secretary the creation of kind of like an Army Corps of Engineers that would be for our skilled trades workforce, dovetailing off of our partnership with our great union apprenticeship training program?

So what I'm getting at is I go every week and visit a manufacturing company. I have a program called Manufacturing Monday. I get to geek out, I get to see their cool machines, I get to meet with a bunch of incredible workers, and plant operators. And I just heard this my entire career. You know we have problems getting people in. I've got an aluminum foundry up in Waterford, you know, the top guy who has been here for 25 years. He'd turn on the furnaces.

He'd get there at five in the morning, he'd turn on the furnace. An incredible individuals who lost his life to COVID-19. My owner is now telling me, Chuck Julian, he can't get that job replaced. So I'm trying to think about more. I don't know if it's creativity, but just the call to action right, we want you, we need you, we need truck drivers, we need manufacturers, we need people working in construction.

And teasing this out right, of what you're cooking out at DOL, you know, is it tuition assistance? Is it guaranteed tuition assistance for your offspring? What can we do to inspire people to move into these careers of the future and continue to respond to our incredible challenges and opportunities of advancing Buy American, by making it in America, and growing these industries to scale in places like where I call home right here in southeastern Michigan.

Secretary WALSH. Well first of all thank you for your opening comments. Thank you for your energy and passion that I can see right now. Thank you for what you do going around to your manufacturers in your district because you understand first-hand those manufacturers. Some are representing union employees, and some

are representing non-union employees, and you understand the needs that they have.

And I think the answer to your question is everything that you talked about we should try. I think we need to start by passing the American Jobs Plan because the investment is in there. We need to make sure we pass the WIOA authorization that we're talking about today because it's in there.

We need to sit down with our employers. Are employers in this country are great. We need to sit down with our employers. We need to sit down with our employees. We need to sit down with organized labor, and we need to collectively, not at one table, but we need to have conversations about how we create pathways for people into these good-paying jobs.

Last week I was in Pennsylvania. I stopped at a manufacturer that did rebar. They did reinforced rebar that is the foundation of a building, and they were talking about the need for skilled workers. Skilled workers meaning they'll train them on the job, but how do we get the basic skills to those workers.

So I was thinking as I was out there, and I was out there with some congressional people and the mayor and things, there are thousands of companies in America that need this, so all we need to do is make sure we create a space for them to come to the table to talk about what it is that they want to see.

And as we make these job training investments the outcome will be a job. And the outcome, so we can all look back and say how proud we were of making the investment in 2022 Fiscal Year budget and this is what it did for the American worker in the future. So I do think there's lots of opportunity there.

Ms. STEVENS. Well thank you Mr. Secretary, and whatever you need in that charge I am full force behind you and with you in getting that done, and with that Mr. Chair I yield back.

Chairman SCOTT. Thank you. The gentlelady from Louisiana, Mrs. Letlow.

Ms. LETLOW. Secretary Walsh thank you for taking the time to discuss the administration's policies and priorities for the U.S. Department of Labor. Much of the 5th District of Louisiana is rural which has its unique set of challenges, as well as opportunities. It's important that Congress and the administration continue to invest in rural communities and create Federal avenues to help these areas flourish and grow.

I was especially pleased to see the Department's Fiscal Year 2022 request of 50 million for the Workforce Opportunity for Rural Communities Initiative. This workforce program has boosted rural community workforce development efforts across the State of Louisiana, and within the 5th District.

As I've traveled the District I've heard from farmers and business owners about the importance of the Department's H2A and H2B programs. Seasonal workers are vital in helping farmers process their crops and keep businesses running, which in turn benefits the local economy.

While I've heard of significant delays and inconsistency in processing these visa requests, I've been informed of a recent issue that our farmers and seasonal business owners have been facing. It's my understanding seasonal workers are using waivers to abuse the

system, leaving farmers and producers who have followed all the rules in a bind.

For example, a farmer may go through the complex approval process, pay many fees to bring a worker to his or her business, and then the worker decides to abandon the original worksite to go to another company. Now the original employer is out of an employee that they were counting on and left footing the bill for someone else.

This practice is fundamentally unfair and is significantly hurting farmers and businesses in my district. One suggestion to address this issue is to allow employers to report seasonal employees who do not show up to their original worksites to the Department of Labor. Then next year as these employees apply for H2A or H2B Visas they will be flagged as deserting their worksites and not be granted a visa for the upcoming season.

I believe denying applications of unreliable seasonal workers will help curb this abuse. Secretary Walsh, what do you think about his proposal, and what can the Department do to curb this abuse of the seasonable worker system?

Secretary WALSH. We definitely are going to look into it, and I'd like to maybe work with you and your office about some of the concerns that the farmers have in your area and I'm assuming you're not the only district in the country where this is an issue, so I'd love to work with you there, and thank you for supporting the 50-million-dollar investment as well.

I appreciate that, but for me rural American farming country is new, and I certainly want to do everything I can. My family is from Ireland and my family were farmers, so I certainly have a place in my heart for farmers and farming so thank you.

Ms. LETLOW. Thank you, Secretary. As I've spent the past 3 weeks in Louisiana, I've seen numerous hiring signs and have been hearing from business owners that no matter what they do they cannot find people to work. In fact one business had a sign on their door saying they are doing their best to restaff, but they cannot complete with the Federal Government's expanded unemployment insurance benefits.

These additional payments now pose a significant roadblock for the recovery of our small businesses. As our Nation recovers, we should be doing all we can to encourage Americans to get back to work. Mr. Secretary what would you say to those small business owners who point to the expanded Federal unemployment insurance benefits as a specific reason why they are struggling to find employees to come to work?

Secretary WALSH. I mean I think one of the things I would say is that President Biden's economic recovery plan is working. We're seeing more and more Americans go back to work every month, an average of about 540,000 last month we saw the second highest 1-month average increase in the last 4 months.

We're seeing more and more people looking for work every month, and I think that you know as we get more people vaccinated, as we get more beyond the pandemic and seeing you know hopefully our economy return back to the way it was, I would hope over the course of the next several months were going to get more

and more people back to work and getting more and more people, get this pandemic behind us.

I mean at the end of the day the employers that are talking to you probably would also tell you in the beginning of the pandemic they were concerned about you know paying payroll, they were concerned about keeping the doors open, the lights on. This has been a tough time for everyone. It's been a tough time for our businesses in this country, it's been a tough time for our workers in this country.

Quite honestly, it's been a tough time for everyone, so hopefully we're seeing the light at the end of the tunnel and we're getting close to the end of that tunnel with regards to the pandemic.

Ms. LETLOW. Thank you, Secretary. I yield back my remaining time.

Chairman SCOTT. Thank you. Thank you. Mr. Jones is away from his camera right now, so we'll go to the gentlelady from North Carolina Ms. Manning.

Ms. MANNING: Thank you so much Mr. Chairman. Thank you, Mr. Secretary, for your patience and your tenacity and sticking with us today. I am from the State of North Carolina, and I want to pick up on what Representative Letlow asked you about because I was visiting our semi-annual furniture market in Highpoint just this weekend, and I have to tell you how thrilled everybody was that we were able to have a furniture market.

It was canceled last year. It's incredibly important to the people in my district. Highpoint has one of the largest furniture markets in the world, and we were thrilled to see so many people there, not only coming back to do their work, but also to be there without masks on, and that is really a tribute to the ability of this administration to get the vaccine out and get shots into arms, so that people could go back to work.

Now I did have an interesting conversation with the owner of the largest showroom, the largest furniture company I understand in the world, and he did talk about how he can't find people to work in his factories. He is stunned by the inability to get supplies from the containers that are not being unloaded at the docks.

What I did ask him about when he first noticed the labor shortages, he admitted that actually he has having trouble finding truckers and other people before the pandemic started. So I'm wondering if you can talk about other issues. Are you hearing about people unable to come back to work because of childcare issues, because of kids not being in school? And is there a component of this problem that the labor shortage that pre-existed the pandemic, it's just we're seeing in a fuller light with what's going on today.

Secretary WALSH. Thank you, Congresswoman, good to see you again. I think the second part of your question I think the lack of serious investment in workforce development, job training and apprenticeship programs has definitely put a strain on the supply of American workers, in the training of American workers.

And I think that this investment in the reauthorization in the American Jobs Plan is going to help us. It's an 8-year plan moving forward, a 10-year plan in some cases. It's going to help us and help employers in this country get employees that are better



trained and better equipped to work in these different industries, I think that's the question, yes.

The second piece is you know I think that we can't forget that we've been living for the last 15 months in a worldwide pandemic that we haven't seen in this country in 100 years. That we literally shut down our economy, industry and business and people working from home, and it's not just a quick turn on the light and everybody comes back.

I think that when you think about different cities and towns in America, I mean up until the last month most restaurants in this country weren't at 100 percent capacity. They were at 50 percent or outside. When you think about workers that were working in those industries that didn't have an ability to get childcare and think about well you know I'm not getting paid.

I think that there's a lot of factors that's going into people coming back to work. However in saying that, in the last 4 months we're seeing 2 million people come back to work, over 2 million people. We're seeing that change. We're seeing money from the American Rescue Plan that's able to get down to childcare facilities.

Many childcare facilities in this country might have been supported by states and localities for a couple months, but they weren't supported after that. These childcare facilities depend on having people in them, and children in them to stay open. They lost that ability. So the investment 39 billion dollars is important.

The restaurant industry 16 billion dollar investment from the Federal Government in one plan as well as others. So I think there's lots of reasons, but as we think about moving forward here, I think we're seeing ourselves climb a steep hill. We're getting to the top of that hill, we're not quite there yet, and I would say if we had this hearing 3 months from now, we're in a very different situation in America with workers than we are today.

Ms. MANNING. Thank you. I want to very quickly ask about the fee that is used that H-1B workers generate. There are a lot of registered apprenticeship opportunities, and with it is a fee to create registered apprenticeship programs. Do you know how the fees are actually used when people get H-1B visas, are those fees actually used to create apprenticeship programs?

Secretary WALSH. What they're used for is competitive grants. We use them as competitive grants. The H-1B grant enables the Department to respond to the needs of skilled workers for emerging sectors and help them gain the skills they need for employment in high growth areas, high growth industries. That's where the money is going to those grants.

Ms. MANNING. Thank you. My time is expired I yield back.

Chairman SCOTT. Thank you. The gentleman from Indiana Mr. Mrvan.

Mr. MRVAN. Thank you, Mr. Chairman. Mr. Secretary thank you for your testimony today. I appreciate your dedication to the labor movement. Northwest Indiana are extremely proud to see you lead our Department of Labor and trust that you will stand up for the American workers. Before I begin, I simply cannot miss this opportunity to share that my district has the largest oil refinery and the largest concentration of steel production in our nation

You know where I'm going, I believe. My district has two significant labor locals, 41 and 81, President Mike Campbell and Kevin Roach remind me every time they see me how proud they are for you to be in this position, and I just wanted to share that with you, so you understand their pride here locally in Northwest Indiana.

As you know, there has been a race to the bottom as industrial jobs have fled the United States. And as employers have chased low wages, poor working conditions and the restrictions on workers to exercise basic rights such as joining a union of their choice. Violence against trade union leaders also persists in many countries.

Our trade agreements have not leveled the playing field and when other countries have flouted those arguments, or those agreements, or trade preference programs, the U.S. Government has for the most part been slow to enforce the labor standards to which the parties agree.

The bargain Congress strikes is that in exchange for the free trade deals, U.S. workers are told that there is trade adjustment assistance. That is a good program, but it is not the answer to leveling the playing field. What is the DOL's agenda to protect good jobs, good paying jobs, and what is the International Labor Affairs Bureau planning to do to address the race to the bottom?

Secretary WALSH. Thank you for that Mr. Congressman. Thank you for your question and your comment and tell my two friends I said hello when you see them again. First ILAB. ILAB is not the core function, but one of their functions is to make sure that they raise standards everywhere in this world. And that's something that they continue to work on.

And you know I've had several meetings with ILAB here and really and I've had some international calls as well to make sure that we're raising the quality of worker's life and standard of living for workers around the globe, so that's something that's really important to do.

I think the Department of Labor's mission is also at home to initially continue to advocate on behalf of the American worker. I think that there's been in some cases you talked about people working in industries that are underpaid, underrepresented, don't have opportunities to get into those industries.

And I think that you know the conversation we're having today about the reauthorization of WIOA is important. The conversation we had, you know, with the American Rescue Plan was important. To be able to staff back up the Department of Labor over the last 3 years. In some cases the Department of Labor has been decimated in wage and hour. In OSHA there's real worker protection, so and many other areas as well.

So we're working now to staff up so that we can get those safety precautions and wage and hour in those places up so the American worker is not taken advantage of. And I look forward to working with the many pieces of legislation that you and other people in Congress have filed, and I look forward to working with you and getting some of that passed.

Worker Rights Bill, and also respecting companies and corporations in this country. So we have to be collectively working together in my opinion. And that's why you know Secretary Armando and I have made a commitment, Secretary of Commerce and Secretary

of Labor, that you are now we went to watch a boat together in Groton, Connecticut. We went out there to send a strong message that it's about the American worker. It's about the American industries, and how do we collectively work together to move the agenda, so the worker has an opportunity to get into the middle class.

Mr. MRVAN. Mr. Secretary I thank you very much and I just want to close by saying I believe strongly, not only in my district, but in the State of Indiana and in the Nation, that a great part of our divide in our Nation has to do with workers feeling left behind and uncertainty.

And as we chip away from that with your leadership and President Biden's leadership in bringing our Nation together by focusing on the workers, we'll make a great impact in bringing us together, so I appreciate your efforts and look forward to working with you and look forward to a potential visit in the future to our district. With that, I yield back my time.

Chairman SCOTT. Thank you. The next person I see on the screen is the gentleman from New York, Mr. Bowman.

Mr. BOWMAN. Thank you, Mr. Chairman, and thank you Mr. Secretary for your work thus far. I represent New York's 16th District. I'm going to piggyback a little bit on Congresswoman Hayes' question about returning citizens.

In my district, I represent the Bronx and Westchester which includes Yonkers, New York. And I met with constituents recently at Graystone Bakery. They have successfully implemented an open hiring model. I don't know if you are familiar with it which means they don't conduct background checks. They don't require resumes, none of the conventional requirements typically involved in seeking employment.

If a person is seeking employment and there's an opening, then there's a job for that person. This approach has meant returning citizens can access employment without the usual barriers that contribute to recidivism.

Given the system challenges faced by returning citizens seeking stable employment, how will you lead the Department of Labor in meaningfully improving reentry employment opportunities, and specifically what can the Federal Government learn from Graystone and other employers carrying out an open hiring model?

Secretary WALSH. Thank you. Well first of all this is an issue that as I said a little earlier today, I'm passionate about. We have a similar bakery shop, sandwich shop in Boston called the Haley House in Roxbury that has been operating for I think over 10 years in the city of Boston that does some amazing work there as well.

As mayor of the city of Boston I helped create a pre-apprentice program called Operation Exit through the city partnering with the building trades a couple years ago. We have been able to get I think about 100 and I think four people that have been previously incarcerated, or court involved, or whatever the situation is into the trades, working in the trades.

It's incumbent upon us that we make sure that we create opportunities for people returning from incarceration. It's good for the individual, it's good for their family, it's good for a city, it's good for a region because many of these folks that come back from prison, whether short-term or long-term prison, they need an opportunity.

And if they don't have an opportunity, they go right back to the corner. I use the word corner, maybe the Bronx and Boston it's the corner they came from, and nothing good is going to come of that. So in this reauthorization we do have money for returning citizens, and also when I talk about job training, I don't separate who should be eligible for these training programs.

We need to be more comprehensive when we think about these retraining programs as we move forward. So you have certainly my commitment and I'd love to go visit the bakery and I know I'm not the mayor of Boston, but I'll take you to Boston and let you see some of the programs that we created there and make a model of it, and make a model in the country.

Mr. BOWMAN. Appreciate that. Second question. The hardships brought on by COVID-19 have made the obvious painfully clear. Caregiving is essential at every stage of life. We know caregivers are predominant black and brown women, and immigrant women, and that, on the whole, their work conditions and compensation are in great need of improvement. That's why I introduced the Care for All agenda earlier this spring to call for raising pay, benefits, protections and standards for all care workers and to ensure pathways for unionization by creating millions of new care jobs over the next decade.

Secretary Walsh, the President's American Jobs Plan proposes an expansion of home and community-based care under Medicaid to support caregivers with the ability to collectively bargain. That's a good start, but we need to ensure this is implemented well.

Recognizing that it's under the Centers for Medicare and Medicaid Services, how would you understand the Department's role in supporting the successful implementation of their proposal for a workforce that has historically been un-or under-represented by unions?

Secretary WALSH. Well the first step is we need to pass it, and the 400 billion dollar investment is key. And then we're going to work. I mean the President has been very clear across the cabinet talking to people's interest in their areas of interest here, so Department of Labor will be very involved in that making sure it's carried out.

As you mentioned we've seen it during the pandemic. I saw it at, and I mentioned earlier in the hearing about workers that these are essential workers that went to work every day. In the beginning of the pandemic they didn't have gowns, they didn't have N-95s. They had high rates of infection. Many of them got sick. The rate of, or the age of the average person is 55 years old working in these facilities.

Many of them it's their second or third job. So this only makes sense in the care's economy. And then on top of it all if you're not interested in the worker's side of it, think about the care side of it. They're taking care of our loved ones inside of there. And you want to make sure our loved ones that are in there are getting the best care they possibly can get, so I think that's important.

Mr. BOWMAN. Thank you so much Mr. Secretary. I yield back Mr. Chair.

Chairman SCOTT. Thank you. Mr. Jones is back. Mr. Jones of New York, Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman. And Secretary Walsh it is a pleasure to speak with you today and hear about the important work that you're doing at the Department of Justice. I'm pleased that the priority set forth in the President's budget.

Chairman SCOTT. Department of Labor.

Mr. JONES. Department of Labor, I'm sorry what did I say?

Chairman SCOTT. Justice.

Secretary WALSH. You had me in a whole different category.

Mr. JONES. I've got a hearing tomorrow with the FBI Director, so I apologize. As you know today's workers face many steep challenges that have never been more apparent than during the COVID-19 pandemic. A Federal minimum wage that in no part of the country is a living wage.

A lack of paid family and medical leave that makes workers choose between their pay and their well-being. A lack of affordable childcare that has decreased labor force participation, these challenges can be met with both solutions that meet the needs of American workers and families.

And with the American Jobs Plan and the American Families Plan I'm optimistic that together Congress and the Biden administration can pass the transformative change that our country needs. I also want to take a moment to make note of your efforts to address issues impacting communities of color. As you mentioned in your testimony, many communities continue to be marginalized as a result of systemic racism and economic inequities.

I appreciate your commitment to ensuring vulnerable disadvantaged and underrepresented communities are a priority for the Department of Labor and the Biden administration as we work to build back better. My colleague from North Carolina Ms. Manning brought up childcare which is an issue for which I had introduced legislation with Senator Warren, the Universal Childcare and Early Learning Act.

The American Rescue Plan provided 39 billion dollars to stabilize the childcare sector, effectively saving the childcare system from the brink of collapse. This critical funding also makes childcare more affordable for families. However, for too many families the high cost of childcare prevents parents, especially women from participating in the workforce.

Can you describe why bold investments in childcare are good for the labor force?

Secretary WALSH. Absolutely. I mean I think first of all everything you talked about I agree with, and bold investments in childcare; well there's two things I think they benefit. No. 1, a benefit for family. It benefits to get more women into our workforce, the women that have been pushed out of our workforce, creates opportunity.

But also investment in childcare helps the child. If you look at the studies of young people that are in high-quality, high-quality childcare or universal pre-kindergarten, their pathways to success to high school and college are well documented in the benefit of having high-quality pre-kindergarten, high-quality childcare.

So I think when you think about the investment, I think today we're thinking about the benefit of getting women back into the workforce, but the benefit goes so much beyond that. Because if

you get young people into those programs and you have better outcomes, not only does it strengthen their outcome, it also strengthens school district's outcomes, it strengthens community outcomes.

It allows us the opportunity to not have as many conversations about re-entry and preventative measures. There's a whole bunch of benefits from making that investment today. And I think that right now is the time to do that. Right now coming out of a pandemic we see how the system works. In some parts of the country it's working, in some parts of the country it's not.

What this is the investments in the America's Job Plan, the investments in the America's Family Plan, it is a universal United States investment for all people, so I think it's incumbent upon all of us to make sure that we do everything we can to pass these investments, but also then it's going to be our job, incumbent upon us and governments and states and cities to carry those plans out to make real investments in their communities, so they have real good outcomes.

Mr. JONES. Thank you so much for that. I noticed today nearly 2 months after the March 15 deadline we will have finally an emergency temporary standard for COVID-19 covering healthcare facilities. But you are now I have to ask why wasn't the March 15 deadline met, and why doesn't the emergency temporary standard cover other high-risk workplaces such as meat packing plants and correctional facilities?

Secretary WALSH. Yes you know one of the things it's the nature of the Coronavirus. It's working with the different departments we had here, you know. We've gone through this virus, obviously as we all know, I'm not saying anything that no one understands, it's not predictable. And you know when I got sworn in, I think I got sworn in March 23, they were working on a standard. I wanted to get the most up to date information.

I was working with the CDC and working across departments, and when we finally got the information as we sent it over for a review, then the CDC actually made some changes as far as the workplace in mass and things like that. So what we did was we made sure some of the most vulnerable workers we have in our country are the healthcare industry where people are still going in with COVID, getting COVID, being treated by COVID.

We put down some other regulations around, or some recommendations around other industries, and if we need it God forbid, we see other spikes, we'll be able to go back and take a look at these other industries if we need these standards enhanced in other areas.

Mr. JONES. I yield back.

Secretary WALSH. Thank you, Congressman.

Chairman SCOTT. The gentleman's time has expired. Mr. Pocan, Mr. Castro, Ms. Sherrill. The gentleman from Kentucky who is fresh off of his own hearing at the Budget Committee Mr. Yarmuth.

Mr. YARMUTH. All right. Thank you, Mr. Chairman. We missed you, but I understand it's been a long day. Mr. Secretary, welcome and thank you very much for the work you do. I have to make a comment before I ask my question, and that is that listening to some of my republican colleagues it seems to me they think the

mission of the Department of Labor is to defend our workers from the unions, and not from the employers.

And I understand why they get that impression because of the last 4 years of the Trump Labor Department that seems like what they were focused on. But clearly, if you read the mission statement of the Department of Labor as I have, it's to protect the rights of workers and the interests of workers and thank you for your dedication to that.

About 50 years ago I grew up in my district in Louisville, Kentucky and 50 years ago there was a series of articles in the Louisville paper that won a Pulitzer Prize talking about black lung disease. And I don't think anybody in our country, and certainly in my community which is a couple hundred miles from coal country, had ever thought about black lung disease or knew what it was.

And so there was a lot of attention focused on it then. I think the Mine Safety and Health Administration was created largely to deal with that issue and others similar to it. And we thought we had black lung disease under control, but apparently not. And over the last few years we've seen a resurgence and the hearing we had for the Committee at the last Congress, and the research that was done by National Institute of Occupational Safety and Health had decided that this is really miners' exposure to crystal and silica.

So my question is after 50 years we need to finally put the end to black lung disease, and I wonder if the Department has a strategy for doing that.

Secretary WALSH. You know we're certainly committed to finding ways to make sure that workplace is safer, and that black lung doesn't impact and affect people. My father was a construction worker. He didn't work in a mine, but he came out to this country in 1956. He worked on projects. Toward the end of his life 25 percent of his lung capacity was working.

He had emphysema. He was on an oxygen machine for the last 10 years. That was a direct result of working with asbestos and other types of dangerous materials at construction sites. At this point in 2021 there's no reason why we don't have better technology to be able to make sure that workers are safe when they go mining, and that their family Members have them around for a long time.

So we are definitely committed here at the Department of Labor to work with you and other Members of Congress, but also coming up with better measures to keep workers safe.

Mr. YARMUTH. A followup question. The black lung trust fund is now about 6 billion dollars in debt, and the tax rate on coal that finances the trust fund is set to drop by 55 percent the end of this year. I think about two-thirds of black lung claimants receive their benefits from that trust fund. Do you support extending the black lung excise tax rate? And if so, or if not, what is DOL's plan to bolster the solvency of that fund?

Secretary WALSH. No thank you. This is an area that one of the first briefings I had as the Secretary of Labor was talking about black lung, talking about the first part of your question about safety measures, and the second part of your question a trust fund that is running out of money and that continues to operate with a deficit.

And in most recent years as you know you just said that the tax revenue has been insufficient to cover the current benefit payments. The fund must continue to borrow to pay its financial debt from the inception, looking at this the tax revenue has been insufficient to meet the fund's expenses.

So I'm committed in any way possible finding ways to protect miners in the cause of black lung. The Department of Labor also recognizes that coal operators should contribute additional funds to ensure that miners and coal community impacted by black lung disease should be protected without shifting responsibility to taxpayers.

However, no determination yet has been made as to the best mechanism for ensuring the trust's insolvency, and protecting the miners and their families, so I would love to I guess as Secretary of Labor, but I think about some other ways of creating opportunities to make some investments in this trust fund.

Mr. YARMUTH. Appreciate that and look forward to working with you on that. Thank you, Mr. Secretary. I yield back.

Secretary WALSH. Thank you, Congressman.

Chairman SCOTT. Thank you. Next, we have the gentlemen from New York Mr. Espallat.

Mr. ESPAILLAT. Thank you, Mr. Chair. Thank you, Secretary, for this long day. And I want to thank you for taking all the questions from our Members. My first question is I know that we can all agree that we need to do transportation infrastructure. Transportation infrastructure will be great to give a facelift to the country, to the roads, bridges, and tunnels, broadband, and public housing and the rest.

But it's also a great job producer. However, transportation infrastructure agenda is different than it was decades ago. And that requires building green enough, requires building smart, it really requires a different workforce, a differently trained workforce.

My first question is do you think we have that workforce ready if and when we pass a transportation infrastructure bill? The second question is for many years communities of color feel that when we have these mega projects, they're totally left out. They see the projects going on beautifully around their neighborhoods, but they don't get the jobs.

And so I want to know what's going to be different now from OFCCP that will guarantee that these transportation infrastructure mega projects are successful not just in rebuilding America, but in creating jobs for the community that we need them the most.

Now I'm working with City College, and we have the Charles Lee Wrangle Transportation Infrastructure program there going, and I'm hopeful that there could be partnerships between an entity like that, academic institutions and labor to make sure they come down to the communities that are really hurting.

So those are my two questions for now.

Secretary WALSH. OK, no, thank you. Both questions are very related OK. On your first question I do feel that we have the skilled workforce available to do the work of infrastructure work, whether it's roads and bridges, whether it's the clean drinking water, whether it's the broadband, whether it's electric grids.



But the second part of my answer is we have to be real intentional about making sure that equity and inclusion is part of that, so everyone has an opportunity to get on those jobs. And President Biden and Vice President Harris from the very beginning of their administration they say what they mean.

The center point the President has done executive orders to make sure that equity inclusion is part of each cabinet and department and the President also in my conversation with him and with all of us about the American Jobs Plan, this has created opportunities for everybody.

And we need to make sure that the communities of color, the black community, the Latino community, the Asian community, women have access to these jobs. So yes, which we have the workers ready for it. B, we don't have in my opinion, enough diversity today, but we have an opportunity with the investments that we're making that we're talking about today in WIOA in the investments in the American Jobs Plan to get people opportunities for pre-apprenticeships and apprenticeship programs to get them into the trades, to get them into industry, so we have to be really focused on that, and we can't.

Mr. ESPAILLAT. I hear you but there is a long-standing distrust right that they will be included in these projects. And although there may be a good part of the workforce ready, the fact of the matter is that in communities of color we need the training, but we also need labor and the unions to be able to open up to these new memberships, and new communities.

What's the model? What are you proposing to do that will dramatically change that?

Secretary WALSH. When I say training, I meant opportunities for jobs. But I'll tell you what the model is. The model is a program called Building Pathways in the city of Boston. In 2011 the American recovery plan that Congress voted on you allocated money, they allocated to retrofit housing authorities across the country.

That housing development in the city of Boston was a project labor agreement on that project. We created a program called Building Pathways, that program was for housing, it started out as housing tenants that were living in housing developments that would have an opportunity to get into the building trades. It was 100 percent guaranteed placement into the building trades.

87 I think percent of the people, roughly the number that are in that program are people of color. The program is still going. It started under a project labor agreement. Fast forward a bunch of years later suddenly, over 500 plus people have gotten into, people of color, have gotten into the building trades through that program.

So again when I talk about, we have to be intentional about the program. We have to make sure that it's not just written. It can't just be a pre-apprentice program. There needs to be an outcome. It needs to be connected to a job. So if there's a road job there needs to be a connected that you're doing a pre-apprentice program, but that job, that person that's doing the pre-apprentice program needs to get access to that job.

We have to be thinking about mandating a certain amount of percentage of people to make sure they're working on that project.

We have to create pathways for people of color to get into those jobs, into the trades, into our workforce for good paying jobs.

Mr. ESPAILLAT. Thank you. I look forward to working with you. Mr. Chairman just a shoutout for the \$963 million appropriation appropriations for youth activity programs. It's very important for East Harlem my district. Thank you, Mr. Chair.

Secretary WALSH. Thank you, Congressman.

Chairman SCOTT. Thank you.

Mr. POCAN. Thank you, Mr. Chairman. You froze up a little bit, but I believe you've already had the republican gentleman from Wisconsin up, so a couple of them so I'm going to assume this is me. First of all Mr. Secretary, thank you very much for your recent visit to Wisconsin. I hope it was helpful as you're looking at the programs you're doing.

I know to the person that I talked to people were extremely appreciative and really got a lot out of your visit, so I just want to say thank you for doing that and getting to so many parts of our State.

You know specifically I guess I wanted to talk to you about the Workforce Innovation and Opportunity Act. You know you've been such an outstanding advocate for working men and women around this country. As we're considering making changes to the existing law, what are some of those proven programs and strategies in your view that could be replicated nationwide to better support workers through that program?

Secretary WALSH. I think there are lots of programs. I've spent a lot of time talking to congressional Members, your colleagues in the house and senate. I've had the chance to serve on the U.S. Conference of Mayors Executive Committee and talking to mayors. I think there's best practices all over the country that you know I don't want to start naming programs, but I think that we have to start thinking about how do we do the alignments of this proposal so we can create real opportunity and make investments.

So let me just give you a couple that I think might be helpful. One is sector-based training and partnerships. I think that's key. I think it's come up several times on the call on the meeting today, community college training partnerships, re-entry training opportunities, expanding quality training and access aligned to quality jobs.

And I think we have to look at all of this to an ends of equity. I really do. I think we have to continue to be equitable in this. If you know the President's intention behind the American Jobs Plan and the American Families Plan, this slogan is Build Back Better.

But it's creating pathways into the middle class, and those pathways in the middle class need to be for all Americans, not just a subset of certain Americans.

Mr. POCAN. And one of the things I guess some unions do, and particularly my union of painters and allied trades that I belong to, is some of our apprenticeship programs around the country actually also are doing some of the community college work, and they're allowing you know people to be able to take advantage of that while they're getting their apprenticeships.

So it's not just our earn and learn, it's actually even an earn and learn plus. Is that something that you think we can further enhance and see those programs expanded?

Secretary WALSH. Absolutely Congressman. And thank you. I mean when we were in Wisconsin we went to the training facility, and we saw the instructors that were training apprentices and other people from outside in the area of glazing in carpentry, and when I say carpentry, it was a painter's union, but they were showing people how to use the tools.

I mean those programs work. I mean there's no question about it. And to be honest with you I've seen in Boston when these training instructors get an opportunity to kind of interact with folks from the community that might not be apprentices, they get excited about it because they're showing off their skill, they're showing off their profession, and they're showing off an opportunity of what's possible for people.

So I think that we should be taking some of the ideas behind the different training centers that we have around the country and use them as the models. I agree with that, as models of success because they are successful. You get to an apprentice program. You get a Member, you're on the jobsite, you get laid off you go back to the union hall, they send you back out to work, they work with employers all day. There's relationships.

You know it's not a battle between labor and management. They work collectively together. That's a model we should be looking more and more in this country.

Mr. POCAN. Just one thing I will add, and I will yield back Mr. Chairman, is that here in Wisconsin right before former Governor Scott Walker kind of forced our State to become a right to work State, there was a coalition of over 400 private contractors who opposed it because of the great relationship through these registered apprenticeship programs there are labor and management, they help train workers. That helps companies who are trying to hire people right now.

It helps the workers because they're getting those skills while they're able to work and earn money, and I'm just a huge, a huge proponent of registered apprenticeships, and you know however we can try to continue that work. I know you've been a huge proponent yourself.

I really love this incorporation with community college model, and if there's some way we can continue to work on that, count me as someone who would like to work with you on that Mr. Secretary. And with that I'll yield back Mr. Chair thank you so much.

Secretary WALSH. Thank you, my friend.

Chairman SCOTT. Thank you. Is there anyone on the platform that has not been recognized? If not, I'll recognize myself for 5 minutes. Mr. Secretary, you've heard a lot about the impact of the \$300 and the hardship that that's inflicted on employers trying to hire people. You haven't heard a word about the PPP assistance we've given employers, hundreds of billions of dollars to help them with their payroll.

I thought we ought to just say a word about that. And also, the extra \$300 you've been coerced into committing to making sure that you don't let it extend past September. Is it my understanding that

you don't even have the authority to let it go past September is that right?

Secretary WALSH. No I don't. Actually you do.

Chairman SCOTT. OK. So you would need legislation, so you can't. It's gone in September unless the Congress passes a bill, and the President signs it. Second on the apprenticeships, the registered apprenticeships, I think we need to emphasize one major advantage in that is that you get a nationally recognized credential.

That if you go and do a registered apprenticeship in Boston, you can come to my district in Norfolk, and they know exactly what you can do, and what qualifications you have. You don't get that with the IRAP is that right?

Secretary WALSH. That's true.

Chairman SCOTT. On the faith-based programs you said you couldn't comment, so you don't have to comment, but the question on the participation of faith-based organizations participating in major labor programs is not whether they can participate, but how they participate.

And what they want to do is discriminate in hiring and discriminate in giving benefits so they can say on a job training program we're not going to train Jews, or we're not going to hire Catholics. I thought we had gotten past that in the 1960's, but apparently, they still want to do it. That is the issue. If you can get passed that, there's no controversy.

So I would hope that you would be strong on that and not allow people to run State and federally funded programs and discriminate against people based on religion. On the emergency temporary standard, I appreciate your telling us that it's been finalized as of last night, but we know that it was due March 15, and also note that Virginia issued an ETS nearly a year ago, so there's no reason why it couldn't have been done first in the previous administration, or why it's lasted so long.

Even with that announcement, we still have questions about the scope and the decisionmaking process. As you know, I sent a letter to you on June 2, 2021, asking for specific information and documents relating to the implementation of the executive order which required the ETS to be done by March 15. I ask unanimous consent to introduce that letter into the record at this time.

Without objection so ordered.

Chairman SCOTT. Can we get a commitment that you will respond to the letters by producing the requested documents and provide the answers that are asked for in that letter?

Secretary WALSH. Tomorrow we're going to have a briefing, so if we could have a conversation after that and let me know what you think about the standard after we do the briefing tomorrow before we get into a conversation on the documents and how it came to.

Chairman SCOTT. There are problems with the standard. Apparently, it doesn't include employees at correctional facilities, homeless shelters, meat packing plants or nursing homes, just healthcare. So we'd like to know specifically how we got to where we are, and those documents and questions are proposed in the letter. So whatever you say we still want responses to the letter.

Secretary WALSH. What I'd like to do Mr. Chairman if it's appropriate is to set a meeting up with myself, the team from OSHA and talk about how we got to where we got to in the process. And then if that's not sufficient then we'll take the next step.

Chairman SCOTT. Well we have a letter pending, and we expect answers to letters that we send.

Secretary WALSH. We'll respond to that.

Chairman SCOTT. OK. Well I'm running out of time, so let me just ask you to submit for the record what the plan is to implement the administration's \$15 an hour minimum wage, how that's to work out, and also the youth employment. We know that youth that they get summer jobs, it's a lifetime benefit. Furthermore, the summer jobs program has been shown to reduce crime so much that the reduction in criminal justice expenses, that reduction exceeds the cost of the programs in some cities, so we want to know what you're doing for summer jobs and other youth opportunities in terms of employment.

Also we know that due to lack of funding, 30 percent and another question for the record, 30 percent of the individuals who interacted with the workforce system last year couldn't be served. Only 30 percent could be served, and we're wondering whether or not there ought to be some fund that could be triggered when regions, or maybe even the entire country suffer large scale unemployment with the idea that the counter cyclical spending.

These things would automatically be available for those areas with the very high unemployment, or even on a national scale without having to wait for Congress to respond. If you could comment on that. And finally if you could provide a plan that you have. I know you have significant increased funding, what your plans are for the Office of Federal Contract Compliance Programs, that is a program which can be very important for equal employment opportunities, even in my judgment, stronger than the EEOC because you don't have to wait for claims to be made to make sure that equal opportunities will be available.

If you can provide what, you'll be doing with the increased funding so that we could see how the equal opportunity mandate of the OFCCP will be provided. My time is expired, so at this point I'll remind my colleagues that pursuant to Committee practices for materials for submission for the hearing record must be submitted to the Committee Clerk within 14 days following the last day of the hearing, so that's by close of business June 23, 2021 preferably in Microsoft Word format.

The materials submitted must address the subject matter of the hearing, and only a Member of the Committee, or an invited witness may submit materials for inclusion in the hearing record. Documents are limited to 50 pages each. Documents longer than 50 pages can be incorporated into the record by way of an internet link which you must provide to the Committee Clerk within the required time but recognize that in the future that link may not work.

Pursuant to House rules and regulations items for the record should be submitted to the Clerk electronically by emailing submissions to [edandlabor.hearings@mail.house.gov](mailto:edandlabor.hearings@mail.house.gov). Again Mr. Secretary, I want to thank you for your participation today. Members of the

Committee may have additional questions for you, and I ask that you respond to them in writing.

The hearing record will remain open for 14 days in order to receive those responses. I remind my colleagues that pursuant to the Committee practice, witness questions for the hearing must be submitted to the Majority Committee Staff or Committee Clerk within 7 days. Questions submitted must address the subject matter of the hearing.

At this point I will recognize the distinguished Ranking Member for any closing statement that she has.

Ms. FOXX. Thank you Mr. Chairman I appreciate that. And once again Secretary Walsh I want to thank you for coming to the Committee today and responding to our questions. I believe you have some sincerity in what you want to do. We disagree on the way to approach some of these issues, and probably the way to approach most of them, but I don't think that you have nefarious motives.

I think you do want to help the situation in the country, and I think you want to help others. But we do have some differences of opinions about how we might go about the solving of some of these problems. I listened closely to the things you said today. I'm pleased to hear your positive comments about the potential of community colleges.

Having been a community college president, I left the university to go to a community college because I believed so strongly in the potential of the community colleges, and I still do. And I'm sure the community colleges are very happy for the attention they're getting from you, and from other people in this administration.

Since President George W. Bush's administration community colleges have been getting a lot of positive attention. In my experience it's a good one, to have met the needs of their community over the years and will continue to do so without a whole lot of help from the Federal Government because they know what they need to do, and they'll do it if they're pushed at the local level to do it.

I'm also happy, very happy, to hear your interest in bipartisan WIOA. When WIOA was first passed I had the opportunity to work on it a lot, and it was bipartisan. And I very much want it to be that way again. Chairman Scott has expressed the same opinion, and thus far, he and our democrat colleagues and we have been working together in a bipartisan manner, and we certainly hope that's going to continue.

To have effective programs, to pass good legislation it must be bipartisan. And all that we regret is that we're so often pushed aside when the ideas that we have are not considered because we think we can do a lot when we work together. I also heard you say Mr. Secretary that you want OSHA to be helpful to employers, and not come in only at emergency time.

I think that's going to be big news to most employers in this country that you want OSHA to be helpful because that's not the reputation of OSHA unfortunately. Go back to the issue of bipartisanship. The American people were sold a bill of goods by the Biden campaign. They expected bipartisanship. They did not expect hard line partisanship from the Biden administration, and that's what they've been getting.

I also appreciated by the way you're saying that you think most employers want a safe working environment and want their employees to be safe. We've talked about that a lot. Our colleagues on the other side of the aisle I think, think that employers are all evil people, but having that attitude is a very different attitude from previous democrat administrations so I'm so, so, happy to hear you say that.

Again, what we hope is that this bipartisanship attitude will extend to other areas where we like to work together with Democrats. We believe that we have good ideas to reduce healthcare costs, unleash the resourcefulness of job creators, and prepare individuals for in demand good paying careers.

And by the way Mr. Secretary, I didn't mean to give you a hard time about what you said about college versus going straight into work, we think everybody wants a good career, no matter what way they decide to go. But where we differ primarily, we believe with the democrat party is that we believe the democrat party wants to exert maximum power over people's lives.

We believe the pandemic is in the rear-view mirror, but by putting out these emergency temporary standards I think you are holding on to the fact that you said in one of your comments that we're still in the middle of a pandemic. We don't believe that we are.

People want to get their lives back, and a healthy economy is a pre-requisite to a return to our normal lives, but I think economic recovery we believe is at a crossroads. We don't think we need trillions of borrowed money for the recovery. We basically need the Federal Government to get out of the way. Our country has responded to economic catastrophes before. We've always found a way to bounce back stronger. This pandemic is not innate, and in the past, we haven't relied on the Federal Government to bring us back.

The languishing recovery we believe is uniquely listless and it's contrary to the Secretary's view that the Biden administration's policies are working. What makes the economic response different we believe now is President Biden's administration's job killing agenda, and the democrat enablers in Congress.

The Democrat's agenda puts special interest ahead of the interest of the ordinary Americans. This agenda rewards the political supporters over American workers. The agenda pays people to reject job offers and stay at home. The agenda works against small businesses. The agenda takes wages from American workers and distributes the money to union bosses.

The agenda discourages entrepreneurs and drowns American businesses with onerous regulations and superfluous guidance letters. We're very pleased to hear you say you're going to go through the rulemaking process and that guidance letters are only suggestions.

Mr. Secretary we're going to hold you to that. The agenda undermines worker's privacy rights. The agenda eliminates individual's ability to find flexible work in the gig economy. And the agenda discourages employers from offering innovative earn and learn models such as IRAP.

But you want to put people into a program that has only a 43 percent graduation rate, but that the Chairman calls a gold standard. I've never heard anybody say 43 percent passing rate is a gold standard. The agenda bankrupts not just us but our grandchildren.

The agenda does not promise to protect religious freedom, our first freedom in the Constitution. I'm happy to hear the Secretary say over and over that he'll get back to us with answers. I'd like to contrast your response Mr. Secretary, and the response of republicans to your saying that with the way our colleagues treated Secretaries in the Trump administration.

They were hounding when they made comments like that, and not given a chance to act like human beings as you have done, and we respect. They were treated very, very rudely. We believe that it's important that we respect all people, even if we disagree with you on political terms.

So we're just going to politely remind you Mr. Secretary of your commitments and look forward to hearing back from you on those. We the American people are waiting to see how the Biden administration is going to allow our freedoms to remain, allow this economy to come back to life as it was in 2019, and to show us that the policies that you have will work for us. And again Mr. Secretary thank you for coming today. And we look forward to working with you. God bless you.

Secretary WALSH. Thank you very much. I look forward to working with you as well.

Ms. FOXX. I yield back.

Chairman SCOTT. Thank you. Secretary Walsh thank you again for being with us. Let me first say that in terms of a college education I believe there's a value to a college education, independent of future employment. I think there's inherent value in a 4-year on-campus liberal arts degree, and maybe we just have to disagree on that.

But I want to thank you for joining us and sharing your vision on how the Department can support our Nation's workers, job seekers, retirees, and families. Today's hearing made clear how critical your leadership and the leadership of this administration have been for workers in the economy. As we have discussed, the American Rescue Plan was a monumental step in our recovery effort, resulting in record number of jobs created.

I can understand why the republicans want to criticize that policy because none of them voted for it, but the jobs were created and it's continuing to show benefits. But we need to continue. With this enactment we promised the country that help was finally on the way, and with this historic investment the package is paying off and helping communities get back on their feet, businesses are reopening, students are returning to classrooms, workers affected by the pandemic are gradually rejoining the workforce.

The policy is working. Yet today's hearing also highlighted that we still have a lot of work to do, even as our recovery continues far too many workers, including those who have fought on the front lines of the pandemic were still having trouble providing for themselves and their families.

The Department's budget request as well as the American Jobs Plan and the American Families Plan represent the next steps we



have to take to address these challenges, and making smart and targeted investments, these proposals will help ensure that all workers in the country can benefit from the strong and shared recovery.

Secretary Walsh we look forward to continuing our efforts to keep workers safe and build back an economy better than what we had and one where everyone can succeed. I think we're well on their way, and I want to thank you for being with us today. It's been a long day, and I thank you for your patience and tolerance. You've faced some tough questions, but I think you have presented an agenda that we can be optimistic about the future.

So thank you very much and if there's no further business to come before the Committee without object the Committee stands adjourned.

[Additional submissions by Chairman Scott follow:]

MAJORITY MEMBERS:  
 ROBERT C. "BOBBY" SCOTT, VIRGINIA,  
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MINORITY MEMBERS:  
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*Ranking Member*  
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 VACANCY

June 2, 2021

The Honorable Martin J. Walsh  
 Secretary  
 U.S. Department of Labor  
 200 Constitution Ave., NW  
 Washington, DC 20210

Dear Secretary Walsh:

I write regarding the Department of Labor's (Department) efforts to implement President Biden's January 21, 2021, Executive Order 13,999, *Protecting Worker Health and Safety*.<sup>1</sup> This Executive Order instructed the Department, through the Occupational Safety and Health Administration (OSHA), to "consider whether any emergency temporary standards [ETS] on COVID-19, including with respect to masks in the workplace, are necessary, and if such standards are determined to be necessary, issue them by March 15, 2021."<sup>2</sup>

With respect to an ETS determination and issuance, the Department appears, at this point in time, to have failed to comply with President Biden's Executive Order, which was issued to elevate the health and safety of workers and their families as "a national priority and a moral imperative."<sup>3</sup>

I know the importance of such workplace safety standards, and I appreciate the complexity of developing and implementing them. I represent many meatpacking workers, correctional-facilities workers, nursing-home workers, and other essential workers in my district. These kinds of workplaces have experienced COVID-19 outbreaks. Thankfully the workers in my district are currently protected

<sup>1</sup> Executive Order 13,999, *Protecting Worker Health and Safety*, Executive Office of the President (Jan. 21, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-protecting-worker-health-and-safety/>.

<sup>2</sup> *Id.* at sec. 2(b).

<sup>3</sup> *Id.* at sec. 1.

The Honorable Martin J. Walsh  
June 2, 2021  
Page 2

by Virginia's COVID-19 Final Permanent Standard<sup>4</sup> (and previously were protected by Virginia's COVID-19 ETS).<sup>5</sup>

But workers in other states do not necessarily have these protections. Their safety and health, and the safety and health of their families and communities, remain at risk. And many state OSHA plans around the country are looking to OSHA for guidance.<sup>6</sup>

Among other topics, we are looking forward to learning more about the Department's efforts to issue an ETS when you appear at our June 9, 2021, full committee hearing to discuss the Department's policies and priorities.

Accordingly, I request the Department respond to the following questions no later than June 7, 2021.

- 1) Why did the Department fail to comply with the Executive Order's March 15, 2021, deadline? Who determined that the Department was not ready to make a determination by the March 15, 2021, deadline?
- 2) Please provide a detailed timeline of the Department's process developing one or more proposed ETSs following the January 21, 2021, Executive Order. This timeline should:
  - a. show who within the Department approved an ETS at various stages of review and when they did so (including who directed the Department to send a draft ETS to the U.S. Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) on April 26, 2021, for review);
  - b. note dates on which the Department provided a draft of one or more versions of an ETS to other agencies (including the White House and related entities) for review;
  - c. include meetings or calls to discuss an ETS held between Department officials/employees and officials/employees of other executive agencies; and
  - d. include meetings or calls to discuss an ETS held between Department officials/employees and the White House.
- 3) Please provide the various drafts of any ETSs that were approved at the stages of intra-Departmental review noted in the timeline in response to request 2.a.
- 4) Please provide agendas and minutes, if any, for all meetings or phone calls identified in the timeline in response to requests 2.c and 2.d.
- 5) Did the Secretary, Deputy Assistant Secretary of Labor for Occupational Safety and Health, or an official acting in those roles determine that one or more ETSs were necessary to implement Executive Order 13,999?

<sup>4</sup> 16VAC25-220, *Final Permanent Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus That Causes COVID-19*, Virginia Department of Labor and Industry, Virginia Occupational Safety and Health Program (Jan. 27, 2021), <https://www.doli.virginia.gov/wp-content/uploads/2021/01/Final-Standard-for-Infectious-Disease-Prevention-of-the-Virus-That-Causes-COVID-19-16-VAC25-220-1-27-2021.pdf>.

<sup>5</sup> 16VAC25-220, *Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19*, Virginia Department of Labor and Industry, Virginia Occupational Safety and Health Program (July 27, 2020), <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7-24-2020.pdf>.

<sup>6</sup> Cf. Beth LeBlanc, *MIOsha to bring workplace rules in line with new mask guidance*, The Detroit News (May 17, 2021, 4:51 PM ET), <https://www.detroitnews.com/story/news/local/michigan/2021/05/17/miosha-bring-workplace-rules-line-new-mask-guidance/5135507001/> (describing Michigan regulators' actions in response to new mask guidance from the U.S. Centers for Disease Control and Prevention).

The Honorable Martin J. Walsh  
June 2, 2021  
Page 3

- a. If so, what was the Department's planned scope of an ETS at that time?
  - b. Did the Department ultimately decide that meatpacking and grocery workers were not required to be covered by an ETS? Who made this decision and when was such decision made?
- 6) OIRA states that it received the Department's proposed ETS for review on April 26, 2021. Regarding this review:
- a. Did Department leadership state internally or to the public their belief about the expected duration of the OIRA review period for that ETS? If so –
    - i. what was the duration expected,
    - ii. who made these statements, and
    - iii. when did they make them?
  - b. Did the Department receive any communications or directives from the White House or any other executive branch entities regarding the expected length of the OIRA review period for that ETS? If so, has the duration of the review period exceeded that expected review period?
- 7) On May 13, 2021, the U.S. Centers for Disease Control and Prevention (CDC) issued new guidance relating to recommended precautions for people who are fully vaccinated.
- a. Did the CDC consult OSHA prior to the issuance of this guidance, including on whether this would have any impact on workplace safety?
  - b. Did OSHA send any documents to the CDC to assist it in developing its May 13, 2021, guidance for people who are fully vaccinated? If so, please provide those documents.
- 8) After January 21, 2021, has the Department received any instructions or unsolicited lobbying from any non-Department entity (either inside or outside of the federal government) to withhold issuance of an ETS? If so –
- a. who were the entities that gave these instructions or unsolicited lobbying, and
  - b. what was the rationale given by the outside entity in each instance?

Please also provide a briefing to Committee staff on these issues no later than June 7, 2021.

Please send all official correspondence and information relating to this request to the Committee's Clerk at [Mariah.Mowbray@mail.house.gov](mailto:Mariah.Mowbray@mail.house.gov). If the Department has any questions about how to comply with a request, please contact Yonatan Moskowitz at [Yonatan.Moskowitz@mail.house.gov](mailto:Yonatan.Moskowitz@mail.house.gov).

Sincerely,



**ROBERT C. "BOBBY" SCOTT**  
Chairman

cc: The Honorable Virginia Foxx, Ranking Member



1201 16th Street, NW | Washington, DC 20036 | Phone: (202) 833-4000

Rebecca S. Pringle  
*President*

Princess R. Moss  
*Vice President*

Noel Candelaria  
*Secretary-Treasurer*

Kim A. Anderson  
*Executive Director*

June 15, 2021

Education and Labor Committee  
U.S. House of Representatives  
Washington, DC

Dear Representative:

On behalf of our 3 million members and the 50 million students they serve, we would like to submit the following comments for the record of the June 9 hearing, “Examining the Policies and Priorities of the U.S. Department of Labor.” Our education-specific priorities include:

- **Rescinding regulatory language in the Fair Labor Standards Act (FLSA) that excludes teachers from the salary basis and threshold tests.** The FLSA guarantees employees an overtime pay rate of at least 1.5 times their regular hourly rate for work in excess of 40 hours per week unless they are “exempt.” Exempt employees include highly compensated individuals and “bona fide executive, administrative, or professional employees,” commonly referred to as white collar employees. In regulatory efforts to define the scope of the white collar exemption, the Department of Labor has considered both duties and salary (the salary basis and salary threshold tests), but not for teachers. Instead, the test for teachers is whether they engage in teaching duties; how much or how little they are paid is not taken into account as it is for other professionals.

Apart from teachers, the only professionals exempt from the salary test are highly compensated lawyers and doctors. In 2020, the median annual pay of doctors was \$208,000 and the median annual pay of lawyers was \$126,930. Teachers face a significant pay gap compared to other college-educated professionals in comparable fields, with 48 percent of public school districts offering teachers a starting salary below \$40,000; in 2019, the pay gap was nearly 20 percent. Even if the Biden administration raises the salary threshold (currently, \$35,568), many educators would not benefit because they would remain below the salary threshold—especially preschool teachers and contingent faculty at colleges and universities.

- **Addressing the teacher shortage and need to diversify the teaching profession through well-designed apprenticeship and other programs.** The nearly 800,000 paraeducators in the K-12 workforce are educated (66 percent have a bachelor’s degree, associate’s degree or some college) and motivated to pursue full teacher certification (20 percent say they would like to become a teacher). They are also more diverse than the teaching workforce (40 percent of paraeducators are persons of color and 88 percent are women). The

Department of Labor should use its resources and expertise to build a pipeline for paraeducators to advance to teaching jobs in the school systems and communities where they already work.

- **Withdrawing the proposed Intermediate Labor Organization rule that would subject NEA affiliates representing only public sector employees to onerous Labor-Management Reporting and Disclosure Act (LMRDA) requirements.** The previous administration proposed resurrecting this misguided rule first proposed during the Bush era. The Department of Labor has not yet formally withdrawn the proposed rule and should do so.
- **Issuing an infectious disease temporary emergency standard.** Once the COVID-19 pandemic has passed, the nation will need to be prepared for future pandemics likely to pose health and safety challenges to workers around the country. In light of that potential reality, the federal government needs to mandate basic health and safety protections.
- **Call for a fair resolution of long-running dispute with the Department of Defense Education Authority (DoDEA).** Two years ago, an impartial arbitrator found that DoDEA acted illegally when it unilaterally implemented a contract for stateside educators—which included 24 hours of unpaid work per academic quarter—and ordered DoDEA to revert to the previous, legally valid contract. DoDEA refused to follow the arbitrator’s ruling and appealed to the Federal Labor Relations Authority. DoDEA recently exacerbated the issue by requiring educators to work an extra hour early in the morning two days each week—a change that has adversely affected educators and their own children. This issue needs to be resolved as soon as possible, preferably before the new school year starts in July.

We thank you for the opportunity to submit these comments and stand ready to help implement the recommended changes.

Sincerely,



Marc Egan  
Director of Government Relations  
National Education Association

[Additional submission by Mr. Fitzgerald follow:]

SCOTT FITZGERALD  
5TH DISTRICT, WISCONSIN  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON SMALL BUSINESS  
COMMITTEE ON EDUCATION  
AND LABOR



Congress of the United States  
House of Representatives  
Washington, DC 20515-4905

WASHINGTON, DC OFFICE  
1607 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-5101

BROOKFIELD DISTRICT OFFICE  
128 DENKINS WAY  
SUITE 815  
BROOKFIELD, WI 53005  
(262) 784-1111

June 15, 2021

The Honorable Marty J. Walsh  
Secretary  
Department of Labor  
200 Constitution Ave NW  
Washington, DC 20210  
Madison, WI 53702

Dear Secretary Walsh

I write to express my concerns regarding the impacts of expanded federal unemployment benefits. The Wall Street Journal recently called the \$300 supplemental federal unemployment benefit "a terrible blunder."

One of the concerns I have repeatedly heard from businesses in my district is the struggle to hire workers. There are over 100,000 available jobs in Wisconsin. The workforce shortage in my state has gotten so dire that some companies cannot even find people to interview.

Wisconsin Manufacturers and Commerce reported that with the extra \$300 federal unemployment benefit, individuals can earn \$670 in direct payments a week, the equivalent of \$16.75 an hour. Further, the Foundation for Government Accountability reports that factoring other non-direct payment benefits like food stamps, Wisconsinites on unemployment can earn the equivalent of \$21 an hour. Individuals are earning more sitting at home than they can working. There is no incentive for people to get off government aid and re-enter the workforce.

While I am glad to see people returning to work, the past two jobs' reports have come in below estimates. This Administration has falsely claimed that the American Rescue Plan and expanded unemployment benefits have led to hiring increases. However, the data says otherwise: Hiring in April was lower in many industries than they were at the end of last year when the supplemental unemployment benefit did not exist.

In light of this data, I respectfully request answers to the following questions:

1. Do you agree that the supplemental federal unemployment benefits are affecting the workforce shortage Wisconsin is currently experiencing?
2. The Trump administration removed burdensome regulations on businesses, allowing them to hire more employees and expand their businesses. Will you commit to ensuring that

agencies, like OSHA, do not enact rules that would place an undue burden on businesses through excessive reporting requirements and overly burdensome government mandates?

3. Gig workers are vital to our economy especially as we recover from the COVID-19 pandemic and get Americans back to work. The Coalition for Workforce Innovation conducted a 2020 survey that showed 94% of workers were satisfied with their independent work style. 89% of workers in that same survey said that working as an independent contractor provided them with the new opportunities and the flexibility to improve their lives. Will you commit to protecting the rights of Americans to remain independent contractors?

4. The Technical College System of Wisconsin is a vital workforce development tool. Every year it produces thousands of graduates trained with high demand skills that allow them to succeed in today's economy. Further, many Wisconsin employers partner with the technical colleges in their community to fill workforce gaps with qualified workers. Would you agree that our nation's technical colleges are an instrumental workforce development tool?

It is time to end the supplemental federal unemployment benefit and get Americans back to work. As such, I encourage you to immediately end the federal government's supplemental unemployment benefit.

Sincerely,



Scott Fitzgerald  
Member of Congress



[Questions submitted for the record follow:]

MAJORITY MEMBERS:  
 ROBERT C. "BOBBY" SCOTT, VIRGINIA,  
*Chairman*  
 RALPH M. GRIFFALVA, ARIZONA  
 JOE COURTNEY, CONNECTICUT  
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COMMITTEE ON  
 EDUCATION AND LABOR  
 U.S. HOUSE OF REPRESENTATIVES  
 2176 RAYBURN HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515-6100

June 17, 2021

MINORITY MEMBERS:  
 VIRGINIA FOXX, NORTH CAROLINA,  
*Ranking Member*  
 JOE WILSON, SOUTH CAROLINA  
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 VACANCY

The Honorable Martin J. Walsh  
 Secretary  
 U.S. Department of Labor  
 200 Constitution Avenue, NW  
 Washington, D.C. 20210

Dear Secretary Walsh,

I would like to thank you for testifying at the Committee on Education and Labor hearing entitled "*Examining the Policies and Priorities of the U.S. Department of Labor*", held on Wednesday, June 9, 2021.

Please find enclosed additional questions submitted by Committee Members following the hearing. Please provide a written response no later than Thursday, June 24, 2021, for inclusion in the official hearing record. Your responses should be emailed to Rasheedah Hasan (Rasheedah.Hasan@mail.house.gov), Mariah Mowbray (Mariah.Mowbray@mail.house.gov), and Kevin McDermott (Kevin.McDermott@mail.house.gov), of the Committee staff. They can be contacted via email should you have any questions.

I appreciate your time and continued contribution to the work of the Committee.

Sincerely,

ROBERT C. "BOBBY" SCOTT  
 Chairman

Enclosure

Committee on Education and Labor Hearing  
*“Examining the Policies and Priorities of the U.S. Department of Labor”*  
 Wednesday, June 9, 2021  
 12:00 p.m. (Eastern Time)

**Chairman Robert C. “Bobby” Scott (D – VA)**

1. Secretary Walsh, what is the Department’s plan to implement the President’s call for increasing the minimum wage to \$15 for federal contractor employees?
2. Secretary Walsh, how will the investments proposed in the FY2022 Budget and the American Jobs Plan fulfill the needs of our nation’s youth, including summer jobs?
3. Secretary Walsh, due to a lack of funding only about 30% of individuals who interacted with the workforce system in the last year were able to access training, even though the workforce system faced massive demand during the pandemic. Should a workforce development trust fund be established which would be triggered when regions or even the entire country suffer large scale unemployment? The idea being that counter cyclical fiscal measures could kick in without waiting for Congress to respond.
4. Secretary Walsh, as you know, the Office of Federal Contract Compliance Programs is tasked with auditing affirmative action plans for government contractors. Is it the case that only 2 percent of affirmative action plans are audited? If so, what can be done to make sure this office is more effective in ensuring that the federal contractor workforce is qualified, inclusive, and looks like America when it comes to hiring and promotions?

**Representative Gregorio Kilili Camacho Sablan (D – MP)**

1. Secretary Walsh, Form 1099G is used to report unemployment compensation received during a tax year. However, there are Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation recipients that have reported their disbursements not matching what is indicated on the online portal or the issued 1099G. On January 28 of this year, the CNMI issued several incorrect 1099Gs - this was followed up by a corrective statement requesting recipients to disregard the 1099G. Is the department aware of the discrepancies surrounding the CNMI’s Form 1099G and the disbursement amounts not matching? Has the department taken any action to remediate the issue?
2. Secretary Walsh, the Marianas labor market relies heavily on foreign labor. Long term paroles and CW-1 workers in the Marianas are eligible for Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation. However, individuals that have successfully transition to CNMI Long Term Resident status during the pandemic are being informed by the Commonwealth’s Government that they are no longer eligible for Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation and are having their benefits cut off. Does the department view CNMI Long Term Residents as eligible for Pandemic Unemployment Assistance

and Federal Pandemic Unemployment Compensation?

3. Secretary Walsh, the Marianas is considered a state for the purposes of the Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation programs. And it is known that the Marianas does not operate an unemployment insurance program. Therefore, it would be a reasonable expectation that your department would provide more guidance to the Commonwealth's Government beyond what a state that has an operational unemployment insurance system may have needed. What direct assistance and training has the Department provided to the CNMI since the program began in March 2020?

**Representative Ilhan Omar (D – MN)**

1. Secretary Walsh, I was happy to see that the Administration is requesting an increase of more than 25 million dollars to Bureau of International Labor Affairs (ILAB). But, as I'm sure you know, ILAB as an organization within DOL is not authorized to carry out all of its functions, even though it implements parts of many different statutes. *Would you support legislation to authorize the important work of ILAB? Do you believe that ILAB will have sufficient resources and mandates in this budget proposal to enforce labor provisions in new and existing trade agreements while also engaging in global efforts to combat forced labor and human trafficking?*
2. Whether it's in meatpacking facilities or Amazon warehouses, workers in my district and across the country have been contracting COVID-19 and dying at alarming rates. To curb the abuse and negligence of workplace safety violators, Occupational Safety and Health Administration (OSHA) has the authority to fine such companies, but these penalties haven't acted as effective deterrents for multi-billion-dollar corporations. *Mr. Secretary, would you support a significant increase in the maximum civil monetary penalty so that larger employers would see OSHA fines as something other than the cost of doing business?*
3. While I was relieved to hear that OSHA would issuing an emergency temporary standard, like many labor advocates and Members of the Committee, I was disappointed by its scope and late timing. I'm not going to ask the repetitive question of why this is the case, but I do want to know – *Mr. Secretary, what do you think could be some more proactive and preventative measures that OSHA should be taking to better prepare us for the next pandemic?*

**Representative Joaquin Castro (D – TX)**

1. Secretary Walsh, the last administration seriously weakened the capacity of the Occupational Safety and Health Administration (OSHA), leaving many vulnerable as COVID-19 swept through our nation. However, beyond COVID-19, we need a strong OSHA to ensure everyday workplace safety and health. Yet, OSHA is not mandated to conduct offsite interviews with employees at worksite inspections, which can impede investigators from fully understanding the fully scope of worksite conditions. **Would you**

**commit to conducting offsite interviews to ensure OSHA is adequately looking into health and safety issues at worksites?**

2. Secretary Walsh, this Congress, the House passed my amendment to the National Apprenticeship Act, which would encourage your Department to expand and support apprenticeships in the media and entertainment industry. This measure will help boost diversity in this image-defining and narrative-creative industry where Latinos, Asian Americans, African Americans, and other communities of color have historically lacked access. **Will you commit to supporting the expansion of apprenticeships in the media and entertainment industries?**
3. Secretary Walsh, as part of the Workforce Investment and Opportunities Act reauthorization, the Committee is looking at expanding career services, including career navigation supports, which has shown to be crucial to workforce development in my district. **Why are these services so important to job seekers, and should these supports be available even once people have found a job, especially individuals with barriers to employment?**

**Representative Mikie Sherrill (D – NJ)**

1. Secretary Walsh, the immense challenges in administering critical unemployment insurance programs throughout the COVID-19 pandemic have made clear that the federal government must help states to modernize their unemployment systems. President Biden included funding for such efforts in the American Families Plan, and several pieces of legislation have been introduced in Congress to support this effort.
  - a. What steps is the Department of Labor currently taking to support large-scale UI modernization efforts across the nation? How will the American Families Plan help with these efforts?
  - b. Has the Department released a specific timeline as to when this federal modernization effort will be carried out? We are concerned that the longer the Department waits, the more states are going to go it alone with their modernization efforts, making it more difficult to create a relatively standardized national system that is easy to access.
2. Secretary Walsh, women and working mothers have been particularly negatively impacted by the COVID-19 pandemic. They have lost the majority of jobs during this crisis, emphasized by April's jobs report in which men gained 336,000 jobs and women actually lost 8,000, and have also shouldered much of the burden in fighting COVID-19 as essential workers. A study featured in the New York Times last fall also found that 1.6 million women had left the workforce due to school and daycare closures.
  - a. How can Congress, alongside the Administration, assist women and particularly working mothers in re-entering the workforce over the next year and in the long-term?

- b. The workforce development and apprenticeship systems have historically served very few women, reducing their ability to obtain good, high-paying jobs. How will the \$100 billion in workforce funding within the American Jobs Plan, as well as the National Apprenticeship Act, help to support women in the workforce?
- c. Finally, difficulties in accessing affordable childcare is a major barrier for many women in the workforce. How is the Department of Labor trying to address this issue, and what impact will the funding for childcare within the American Families Plan have for working women?

**Ranking Member Virginia Foxx (R – NC)**

1. Mr. Secretary, DOL has requested a topline budget of \$14.2 billion in discretionary budget authority for FY 2022, an increase of \$1.7 billion over FY 2021 enacted levels. Unfortunately, only \$7.1 million—or less than 1 percent—of that increase is directed towards the Office of Labor-Management Standards (OLMS), which provides workers with transparency in the workplace by administering and enforcing reporting requirements under the LMRDA. From fiscal years 2000 to 2019, OLMS investigations led to 2,297 indictments, 2,166 convictions, and \$156 million dollars in restitution in 2,100 criminal cases. In light of this demonstrated record of effectiveness and need related to investigations of union corruption, how will the Department's paltry budget request for OLMS protect union members from financial crimes including fraud and embezzlement?
2. Secretary Walsh, Republican Members of the Committee have long supported DOL's Office of Labor-Management Standards (OLMS) and its core mission to ensure transparency and organizational accountability for members of labor unions. During the Trump administration, OLMS worked to achieve greater levels of union transparency through actions such as the reestablishment of the International Compliance Audit Program (I-CAP). This program, which was unfortunately discontinued by the Obama administration, provides valuable compliance assistance to national and international unions while evaluating their compliance with the criminal and civil provisions of the LMRDA, ensuring the nation's largest unions are as transparent and accountable as their smaller counterparts. Mr. Secretary, please describe the importance of I-CAP and how you will commit to continue vigorously supporting this important program?
3. Secretary Walsh, the Office of Labor-Management Standards (OLMS) plays a critical role in empowering workers by requiring union reporting of organizational finances, which allows workers to see how their union dues are spent. Unfortunately, we continue to see rampant union corruption, such as the recent UAW scandal in Michigan, which resulted in the convictions of 15 individuals associated with the union. Their crimes included financial kickbacks to business executives and spending workers' dues that were intended for a workforce development fund on excesses including a Ferrari, a \$1,100 pair of shoes, and two \$37,000 gold pens. Recently, the new director of OLMS told

Bloomberg Law that he would use taxpayer-financed union disclosure data to actually promote labor unions while fighting efforts to use the same data to identify instances of union corruption. Secretary Walsh, is it appropriate for OLMS, which is charged with collecting non-partisan data related to union financial activities, to use taxpayer money for a public relations campaign to promote labor unions while ignoring documented instances of union corruption uncovered by these same disclosures? Shouldn't OLMS focus instead on its core missions of promoting transparency and union financial integrity?

4. Secretary Walsh, you have publicly endorsed H.R. 842, the *Protecting the Right to Organize Act*, which among its many provisions would codify the discredited Obama-era persuader rule, which sought to impose highly intrusive and burdensome employer and employer-consultant reporting requirements related to union organizing campaigns. The persuader rule was ultimately struck down by a federal judge. This discredited policy, which is opposed by the American Bar Association, would overturn more than 50 years of precedent and undermine confidential attorney-client relationships and the right to counsel, even in cases where the attorney or advisor has no direct contact with employees. Do you support reinstating the persuader rule and does your Department have plans to do so?
5. Secretary Walsh, in 2017, the Department announced the reinstatement of the Wage and Hour Division's (WHD) longstanding practice of issuing opinion letters to provide fact-specific legal guidance to stakeholders seeking assistance, a division practice of more than 70 years. Business owners rely on these letters as they seek to comply with our wage and hour laws. WHD issued more than 70 opinion letters during the Trump administration. However, your Department has withdrawn several of these letters and no new letters have been issued since Inauguration Day. Will you commit to continue the longstanding practice of issuing opinion letters, which have been clearly demonstrated as effective tools to increase employer compliance with the laws in the Department's jurisdiction?
6. Secretary Walsh, earlier this spring you were quoted as saying "a lot of" gig workers should be classified as employees, and on May 6 the Wage and Hour Division published its withdrawal of the Trump administration's final rule clarifying the classification of independent contractors and employees under the *Fair Labor Standards Act*. The rule adopts an economic realities test, with a focus on actual practices, instead of those which are theoretical or contractual, when establishing a worker's classification as employee or independent contractor. During the public comment period on the rule, the Department received 230 comments from individual workers identifying themselves as independent contractors, with 200 expressing support for the rule and only eight expressing opposition. Additionally, according to the Bureau of Labor Statistics, fewer than one in 10 independent contractors would prefer a traditional employment relationship. How does repealing the current rule respect and reflect the wishes of these workers and others like them who value the flexibility and entrepreneurial opportunity offered by independent contracting?

7. Mr. Secretary, you have publicly endorsed calls for a \$15 national minimum wage. As you know, a 2021 Congressional Budget Office report found that raising the national minimum wage to \$15 could result in employment losses as high as 2.7 million jobs, with young, less educated individuals accounting for a disproportionate share of those losses. Additionally, over the past several months, our economic recovery has shown disturbing signs, with unemployment rising in April, continued signs of economic turbulence and fears of inflation in May, and overall job creation falling well below expectations in both months. In fact, small businesses are now being forced to pay higher salaries than they can afford because the federal government is paying many workers to stay home because of ill-advised and unnecessary unemployment insurance payments. In light of these realities, how can you support a \$15 national minimum wage, which would continue to kill millions of jobs and deny countless individuals job opportunities which provide a key rung on the ladder to successful careers?
8. Secretary Walsh, since January, DOL has proposed delays or withdrawals of a number of Trump-era rules clarifying aspects of the 83-year-old *Fair Labor Standards Act*, including policies related to joint-employer status, a worker's classification as independent contractor or employee, and tipping practices. Additionally, on January 22, DOL withdrew the Pro Good Guidance Rule, which required DOL to streamline regulatory practices, maintain an online searchable database of guidance documents, and ensure public notice-and-comment periods for significant guidance with substantial economic impacts. Mr. Secretary, how are these actions helpful in ensuring that business owners and workers benefit from the needed clarity provided by the common-sense proposals of the previous administration and does the repeal of the PRO Good Guidance Rule signal an intention to replace them with recycled versions of the failed one-size-fits all regulatory mandates imposed by the Obama administration? Does your Department plan to utilize notice-and-comment rulemaking for all proposed policy changes, which provides important transparency and protections for affected stakeholders including workers and small businesses?
9. Secretary Walsh, during the Obama administration, OSHA often assessed excessive penalties on employers that did not match the facts of the incident or severity of the violation. Many of these penalties did not withstand scrutiny on appeal and were ultimately vacated. Does OSHA plan to return to issuing these legally indefensible penalties during the Biden administration?
10. Secretary Walsh, President Biden's January 21 Executive Order directs the Secretary of Labor to consider whether an emergency temporary standard on COVID-19 applicable to coal and metal or non-metal mines is necessary. To date, has the Department made a determination about whether an ETS on COVID-19 in mines is necessary? If not, when do you expect to make this determination?
11. Secretary Walsh, one of the biggest obstacles to expansion of the registered apprenticeship model is the allowance for unions to exempt themselves from requirements on the ratios of journeymen to apprentices. This creates an uneven playing

field that often prohibits non-union programs from being approved. While I understand that union-run apprenticeships offer a compelling option to some, this type of barrier is antithetical to your Department's stated goal of expanding the reach of the registered apprenticeship model. Will you revise this regulation to ensure that apprenticeships can better meet the needs of all employers and industries, rather than just building trade unions?

12. Secretary Walsh, we often hear that the registered apprenticeship model is too burdensome and complicated for employers to navigate, particularly small- or medium-sized businesses who may not have the same capacity for paperwork and bureaucracy. Whether people are willing to admit it or not, more money is not the solution to this problem. What are some specific reforms that can be made to the program to address these issues?
13. Secretary Walsh, your budget included "Community College Training Partnerships" under the American Jobs Plan. Is this effort modeled off the TAACCCT (Trade Adjustment Assistance Community College and Career Training) program that expired in 2018? As you know, this program showed mixed results. Can you please share how this proposal is different than the TAACCCT program and what changes were specifically made to address the failures in the previous program?
14. Secretary Walsh, your proposed budget discusses the need for WIOA to better serve at-risk youth. One of the bipartisan provisions in the last reauthorization of WIOA was a requirement for 75 percent of youth activities funding to be spent on serving out-of-school youth, primarily because this is the sole avenue for specifically supporting the education and employment of this vulnerable population. However, many states have received waivers for the implementation of this requirement. Do you plan to renew these waivers? How can we ensure that states are able to better implement this provision and retain the focus on serving out-of-school youth through WIOA?
15. Secretary Walsh, one of the very few bright spots in the Job Corps program in recent years was the recent efforts by the Trump administration to pursue a number of pilot programs under their demonstration authority in WIOA. These included, the State Operated Job Corps Demonstration Project and the Job Corps Scholars Program among others. Do you intend to continue any or all of these efforts? If so, can you provide an update on their implementation and performance to date?
16. Secretary Walsh, you are proposing \$18 billion in funding for a new Comprehensive Supports for Dislocated Workers (CSDW) program for workers who are enrolled in federally-funded upskilling programs in order to help with completion and employment. What specifically do these "comprehensive supports" include, and how would they be coordinated with existing Dislocated Worker activities under WIOA?
17. Secretary Walsh, the American Jobs Plan calls for \$22 billion for a new program called, "Sectoral Employment through Career Training for Occupational Readiness", or SECTOR. What exactly is this program intended to do? How do you plan to determine



which industries this program will serve? How have you engaged employers and the business community in the development of the program? How frequently do you plan to update the sectors served to ensure that it is meeting the demands of the current labor market?

18. Secretary Walsh, one of the problems that we hear frequently about the workforce system is that there is often a lack of new and innovative providers eligible for funding for upskilling services. For example, requirements at the state level that providers have a brick and mortar location have presented barriers to online and virtual education providers. What other barriers to eligibility for providers in the workforce system are you aware of? What are you doing to ensure that employers and individuals have better options than they do under the status quo?
19. Secretary Walsh, President Biden issued an executive order in January directing your Department to allow the provision of unemployment benefits to continue for those who have refused a job. Is this policy still in place? If so, how long do you intend to maintain it? Have you engaged with employers about the impact of this policy on their ability to fill open positions?
20. Secretary Walsh, ensuring patients have access to mental health treatment is a priority for me and this committee. Many health plans and employers seek to abide by mental health parity laws but find the Department's rules on non-quantitative treatment limitations to be subjective and confusing. Congress included a provision in the *Consolidated Appropriations Act, 2021* directing employer-sponsored health plans to submit an annual public compliance report. Have plans been compliant with the Department's information requests thus far? What have you learned from these reports?
21. Secretary Walsh, this Committee has played a leading role in allowing associations and small businesses to band together to purchase affordable health insurance coverage through association health plans (AHPs). In 2018, DOL issued a final rule to expand access to AHPs. Before the D.C. Circuit Court of Appeals invalidated the rule, 35 new AHPs were formed. Isn't it true that these new AHPs decreased the number of uninsured individuals? What happened to the premiums of the employees who participated in the new AHPs?
22. Secretary Walsh, in 2018, the Congressional Budget Office estimated that the Trump administration's association health plan (AHP) rule would provide coverage for up to 400,000 employees by 2023 who were previously uninsured. Does the Department agree with CBO's assessment? If the Department rescinds this regulation, what coverage will be offered to these uninsured individuals? On average, does it cost the taxpayer more for an individual to be enrolled in an AHP or in an *Affordable Care Act* marketplace plan?
23. Secretary Walsh, do you support a public health care option—yes or no? As you may know, Washington state recently launched a public option called Cascade Care. The program offered plans at higher cost compared to private plans, resulting in disappointingly low enrollment, and it faced significant problems recruiting hospitals and

doctors for its network. Unfortunately, yet predictably, Cascade Care has been a boondoggle. Many in the Biden administration—including your colleague, HHS Secretary Becerra—have been outspoken in their support of proposals to move all Americans to a single-payer health care system like Medicare for All or a public option, which is Medicare for All in sheep’s clothing.

- a. Why wouldn’t a national public option result in the same problems faced by Cascade Care?
  - b. Would single-payer, and the problems that come with it, be worth ending employer-sponsored health insurance as we know it—which is what Medicare for All or a public option would do?
24. Secretary Walsh, we can all agree that action must be taken to help lower prescription drug costs. However, government price-setting is not the answer. I am concerned that legislation offered by Democrats such as H.R. 3, which creates the option for employers to accept the government-set rate for a prescription drug, would create tremendous legal risks for employers. This increased risk would essentially remove the employer’s choice and ability to negotiate drug prices under its own plan. Secretary Walsh, what would be the consequences for an employer who chose not to accept the government-set rate for a drug under H.R. 3? How easily could they run afoul of their fiduciary requirements?
25. Secretary Walsh, President Biden’s budget proposes spending \$69 trillion over ten years with \$17 trillion in new debt by 2031. Americans are already seeing signs of inflation as the economy rebounds from COVID-19, and this budget does nothing to curb it. How would inflation affect the affordability of health coverage and the value of employer-sponsored benefits like health reimbursement arrangements?
26. Secretary Walsh, strong economic growth contributes to more workers gaining health insurance from their employers. Getting people back to work would help decrease our uninsured. Do you agree with me that it is time to end the juiced federal unemployment subsidy and incentivize workers to return to jobs that offer stable health coverage options?
27. Secretary Walsh, I am concerned about the Department’s audits regarding unresponsive or missing retirement plan participants. We all share the desire to reunite participants with their retirement savings, however, many of these audits go on for multiple years and impose unnecessary, costly burdens on retirement plans and plan sponsors. In addition, there are unresolved conflicts between the Department’s views on missing participants and IRS regulations, and I have heard about the difficulties in following DOL’s guidance. Retirement plan sponsors are unable to engage in all of DOL’s “best practices,” and certainly not for an indeterminant period of time. How do you plan to improve the audit practices of the Department, and how will you ensure that plan sponsors know the appropriate measures to take when connecting stranded retirement accounts with missing or unresponsive participants?

28. Secretary Walsh, the Department has responsibility for enforcing the *Employee Retirement Income Security Act* (ERISA), which covers retirement, health, and other benefit plans for millions of working Americans. Employers are required to report and disclose information to the Department, as well as other agencies, through what is known as the Form 5500 disclosure. Does the Department plan to make any changes to these requirements, and is the Department coordinating with other agencies to address the costs and administrative burdens associated with these occasionally duplicative procedures?
29. Secretary Walsh, in November 2020, DOL published a final rule ensuring that retirement plan fiduciaries prioritize the financial interests of retirees, workers, and their families when investing retirement plan assets. The common-sense rule went into effect on January 12, 2021. However, President Biden directed your Department, under the guise of an executive order on climate change, to review and rescind this rule. On March 10, DOL announced that it would not enforce the rule. By rescinding this rule, is the Biden administration and your Department more concerned with appeasing special interest groups than protecting workers and retirees? Do you believe that retirement plans should sacrifice investment returns or increase risk in order to pursue non-financial interests?
30. Secretary Walsh, participants and beneficiaries in private-sector retirement plans governed by the *Employee Retirement Income Security Act* (ERISA) relinquish control over plan investment decisions, trusting that the plans will be managed by experts who are focused solely the worker's retirement security. This is especially true of participants in defined-benefit retirement plans, who rely on plan trustees to manage assets in a way that ensures promised benefits are available upon retirement. Unlike government-run retirement plans, ERISA plans are subject to the strongest protections known in law, those of an ERISA fiduciary, who must act with an "eye single" to funding the retirement benefits of plan participants and beneficiaries. This means investment decisions and the exercise of shareholder rights must be based solely on whether they enhance retirement savings, regardless of the fiduciary's personal preferences. In March, the Department issued a statement of nonenforcement of two rules finalized in 2020 that address how fiduciaries can fulfill their duties of loyalty and prudence to plan participants. When will the Department issue additional guidance and begin enforcing these rules?
31. Secretary Walsh, in December 2020, DOL finalized a new class exemption for investment advice fiduciaries, which delivered more choices for American workers and retirees and ensured that investment advice was being provided in participants' best interest. Earlier last year, the Department officially reinstated the longstanding "five-part test" for determining who is an investment advice fiduciary under ERISA. News reports indicate, and Department officials have publicly stated, that your Department intends to revisit the regulations and definitions concerning who qualifies as investment advice fiduciary. Does your Department intend to restart the disastrous and discredited fiduciary rulemaking of the Obama administration and the process for determining an ERISA fiduciary?
32. Secretary Walsh, despite previous bipartisan attempts to address failing multiemployer pension plans and the looming insolvency of the Pension Benefit Guaranty Corporation

(PBGC), Democrats rushed through Congress an irresponsible, taxpayer-funded bailout of the multiemployer system under the guise of COVID relief. The Congressional Budget Office estimated that this single provision will cost American taxpayers upwards of \$86 billion. Worse yet, Democrats let unions and employer plan trustees off the hook for decades of mismanagement and refused to include necessary systemic reforms, ensuring a future crisis will again occur. It is therefore reasonable to assume that plans receiving special financial assistance from PBGC will still run out of money absent additional Congressional action. Mr. Secretary, the recently-enacted taxpayer bailout of multiemployer pension plans notwithstanding, reform is desperately needed to strengthen the financial state of these plans and to return the PBGC, which you chair, to self-sufficiency. What are your plans to provide the Committee with responsible proposals to ensure that multiemployer pension plans are not making benefit promises to workers that they have no intention, and are unable, to keep?

33. Secretary Walsh, by passing a \$86 billion taxpayer bailout of the multiemployer pension system, Democrats refused to address the much-needed structural reforms required to curb the systemic underfunding and chronic mismanagement by the union and employer trustees of multiemployer plans. It is galling that my colleagues across the aisle continue to insist that multiemployer plans are simply victims of economic and industry-specific downturns when the single-employer pension system, which is subject to much stronger funding requirements, fared far better through the same conditions. Secretary Walsh, do you believe that multiemployer plans should be subject to the same funding requirements as the single-employer system?
34. Mr. Secretary, in Fiscal Year 2020, the Employee Benefits Security Administration (EBSA) recovered a record \$3.14 billion in direct payments to benefit plans, participants, and beneficiaries. Nearly half of that amount—roughly \$1.5 billion—came from EBSA’s efforts to reunite terminated vested participants with the pensions they earned. These are very impressive statistics. However, this data conflicts with the narrative spun in your Department’s budget request, which claims DOL’s worker protection agencies were neglected by the previous administration. The Department is requesting an increase of \$37 million, or 21 percent over the 2021 enacted level, and an additional 185 employees for EBSA. Secretary Walsh, how can the Department justify such a bloated request given the agency’s recent success?
35. Mr. Secretary, the Department’s budget requests \$6 million on an initiative to “improve DOL’s capacity for evidence-based decision making.” This may seem like a trivial sum in a multibillion-dollar request, but the budget provides little-to-no justification for the request or an explanation of how the Department plans to spend this taxpayer money. It sounds like the Department is establishing a slick-named slush fund for the purposes of creating new federal regulations and red tape. Mr. Secretary, what is the purpose and demonstrated necessity for this request?
36. On November 30, 2018, the Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP) issued a Directive (Dir 2019-02) outlining corporate-wide corrective actions using Early Resolution Conciliation Agreements (ERCAs) to

resolve violations short of a full compliance review, which can take years to complete. Under this process, contractors agreed to enhanced reporting and monitoring obligations. Specifically, contractors must submit annual monitoring reports to OFCCP for a period of five years, and the scope of the reporting is companywide. OFCCP's standard conciliation agreement reporting is limited to two years and the single establishment that was the subject of the underlying review. Under the Early Resolution Program, OFCCP recovered record back pay amounts and expanded the scope of its annual monitoring over some of the largest federal contractors in the country. I understand that OFCCP Director Yang will be eliminating the corporate-wide early-resolution program and not entering new ERCAs. What was the reasoning behind the withdrawal of a program that has proven to be a successful compliance tool? What will replace the early resolution program?

37. OFCCP now has lost two major trials in which the agency's systemic compensation claims and legal arguments were completely denied. In 2020, OFCCP suffered a significant loss in the largest litigation case it has ever brought: its litigation against Oracle. Following a fully adjudicated trial, the DOL Administrative Law Judge denied all of OFCCP's claims and issued a 280-page decision outlining the shortcomings in OFCCP's case, focusing largely on OFCCP's use of a statistical analysis that was found to be contrary to the law. OFCCP elected not to appeal the decision. The loss in Oracle followed another DOL Administrative Law Judge ruling that denied all of OFCCP's systemic claims against Analogic Corp. in 2019 following a full hearing, and OFCCP also did not appeal its loss in the Analogic Corp. case. Surprisingly, notwithstanding the consistent and complete rejection of OFCCP's attempts to assert claims that were not legally sound, several current and former agency officials, including OFCCP Director Yang, have publicly stated that the ALJ in Oracle did not follow established law, and they do not believe that the decision has any impact on the agency's approach to compensation investigations. Based on OFCCP's losses in the Oracle and Analogic trials, what changes to OFCCP's approach to compensation investigations and systemic litigation claims can be expected? Will OFCCP follow Title VII of the *Civil Rights Act* governing principles in assessing whether systemic discrimination has occurred, and will the agency be governed accordingly in the litigation claims it pursues?
38. A 2016 report by the U.S Government Accountability Office (GAO) was critical of the process OFCCP uses to select contractors for audit and recommended that the agency implement a compliance certification process. In April 2021, OFCCP added a landing page to its website for the "Affirmative Action Plan Verification Interface" that federal contractors will be required to use for the submission of verifications subject to the penalties of perjury. To date, OFCCP has not activated the Interface or issued any guidance to contractors on what data will be collected or verified, when the collection will begin, or, most significantly, how the information will be used by OFCCP. When can the contractor community expect to receive this information? Will the verification be tailored to require federal contractors to certify that they have their Affirmative Action Plans, rather than the much more burdensome certification of compliance with all the regulations included in 41 C.F.R. Part 60? Specifically, what information will federal contractors be required to submit through the Affirmative Action Plan Verification

Interface? In addition, please detail how the verifications or other required information will be used to select contractors for audit, as the GAO recommended?

39. Will OFCCP continue its practice of being transparent with contractors about preliminary findings throughout a compliance review, including notice to the contractor prior to issuing requests for information and scheduling onsite investigations?

**Representative Joe Wilson (R – SC)**

1. Secretary Walsh, I represent the Savannah River Site in Aiken, South Carolina. Many patriots who worked at this Site during the Cold War are now eligible for Energy Employees Occupational Illness Compensation Program (EEOICP). Our office has had no shortage of complaints when it comes to navigating this program and barriers to appropriate care.

Do you have plans to work with stakeholders to develop a more transparent, equitable, and claimant friendly adjudication process, as Congress intended?

The Program's 2019 Ombudsman report mentioned complaints regarding collection notices received for a bill that they thought was paid for by the program or in obtaining emergency home health care services. A paraphrased quote from the report states "stress from health problems combined with problems trying to resolve these medical bills and fear of financial impact arising from unpaid medical bills led some claimants to assert that they wish they had not filed a claim in the first place.

What steps do you plan to take to improve the medical claim adjudication process and delivery of promised goods to ensure that medical providers are compensated in a timely manner?

2. Mr. Secretary, as you are aware, during the last session of Congress we enacted the SECURE Act which was a significant first step to putting America's workers and retirees on a path to increasing their retirement security. And just recently, here in the House, the Ways and Means Committee took another step forward on that path with the unanimous passage of the Securing a Strong Retirement Act of 2021. However, we know that there is still much more that can and needs to be done, especially with many workers and retirees experiencing an unexpected detour on that path when our nation found itself amid an unprecedented health crisis that spurred momentous disruptions to our nation's and the world's economies, impacting the retirement savings of millions of workers and retirees, and deepening their anxiety about their retirement outlook and their ability to have sustainable income throughout their retirement years.

What plans does the Department have to address the challenges America's workers and retirees face as they seek to accumulate sufficient savings to enjoy a secure and dignified retirement. Specifically, what if any new rules or changes to existing regulations does the Department have in mind to: (1) expand opportunities for America's workers and retirees to save, (2) facilitate access to and use of protected lifetime income solutions to ensure America's workers and retirees do not outlive their retirement savings, (3) enable the use

of new, modern, and innovative technologies to streamline processes and improve the end-user experience of retirement plan participants, and (4) ensure that America's workers and retirees will be protected while having access to valuable financial products and services they need to help them save for their retirement years?

**Representative Tim Walberg (R – MI)**

1. Ensuring that people not only save for retirement but ensuring their savings last throughout their whole retirement is of utmost importance. Last year, my Democratic colleague Rep. Norcross and I introduced the *Lifetime Income for Employees Act*, which amends ERISA safe harbor standards so not fully liquid investments like annuities can be a part of a qualified default investment alternative or QDIA. Will you and your colleagues at EBSA work with Congress to further integrate lifetime income solutions, like those proposed in the *Lifetime Income for Employees Act*, into workplace retirement savings plans through the Department's regulatory guidance?

**Representative Elise M. Stefanik (R – NY)**

1. Mr. Secretary, the Payroll Audit Independent Determination program—or the PAID program—was established by the Trump administration in 2018 to encourage business owners to conduct payroll audits and to self-report violations if any are discovered. We want workers to be paid what they are owed. Between its inception and July 2020, the successful PAID program resulted in more than \$7 million in back wages paid to more than 11,000 workers. In fact, PAID actions secured four times the amount of back wages compared to traditional full enforcement investigations, and more than 10 times the back wages per Labor Department staff hour invested. And yet despite this success, this Administration ended this program. Why?

How can you defend this decision in light of the demonstrated success of this program, which encouraged compliance and faster payment of back wages to workers?

**Representative Rick Allen (R – GA)**

1. Secretary Walsh, when you testified at the House Appropriations Committee hearing in April, my colleague, Rep. Andy Harris, asked you if the Department of Labor would consider extending the ERISA stand-alone telehealth exemption. Currently, employers are allowed to offer stand-alone telehealth benefits to employees who are not eligible for full benefits, including seasonal or part-time workers. At the time you said that you would have to circle back with him. Since it has been over a month since that hearing, I'm sure you have had the opportunity to formulate a policy response. Mr. Secretary, does the Department of Labor support extending the ERISA stand-alone telehealth exemption?
2. Secretary Walsh, we are less than a month away from the first statutory deadline to implement portions of the *No Surprises Act*, which was enacted in December as part of the *Consolidated Appropriations Act, 2021* to end surprise medical billing. The



Department of Labor, along with the Departments of Health and Human Services and the Treasury, must publish regulations establishing the methodology that plans will use to determine the qualifying payment amount and independent dispute resolution process. I saw that the interim final rule is now under review at the Office of Management and Budget and want to thank you for your work on implementing this important law in a timely manner. The rulemaking process is extremely important, as the decisions you make regarding the qualifying payment amount and independent dispute resolution processes have the potential to favor some stakeholders over others.

- a. How have you ensured the interim final rule protects the interests of patients who are subject to surprise medical bills and is fair to other affected stakeholders?
  - b. How have you been engaging employer plan sponsors to solicit their feedback?
  - c. How do you plan on incorporating public comment on the interim final rule into subsequent rules?
  - d. If the interim final rule is implemented in a way that cost patients money instead of saving patients money will the tri-agencies make changes before finalizing the rule?
3. Secretary Walsh, in crafting the \$86 billion taxpayer bailout of the multiemployer pension system, Congressional Democrats completely disregarded the extreme burden it placed on the American taxpayer—most of whom will not benefit from the open-ended and expensive provision. To put matters into perspective, according to the most recent data from the Pension Benefit Guaranty Corporation (PBGC), the multiemployer system is collectively underfunded by \$673 billion. As Chair of PBGC's Board of Directors, how will you protect the American taxpayers who are paying for this bailout, from again having to bankroll another boondoggle because of further union and employer mismanagement of the multiemployer system?

**Representative James Comer (R – KY)**

1. Mr. Secretary, following the release of President Biden's American Jobs Plan, you expressed a commitment to growing local economies. One of the entrepreneurial paths to owning a business is offered by the franchise model, which has created 10.9 percent of new private sector jobs since 2012. However, at the same time you've endorsed H.R. 842, the Protecting the Right to Organize Act, a radical bill that would codify the confusing, unworkable, and discredited Obama-era joint-employer standard and would result in a loss of up to \$33 billion in annual economic output in the franchise sector. How does your Department's budget account for the jobs that would be lost given the PRO Act's damaging changes to the joint employer definition? And what would you advise that business owners tell the workers they are forced to fire as a result of this radical policy change?
2. President Biden issued an Executive Order raising the minimum wage for federal contractors to 15 dollars an hour. As you know, a 2021 Congressional Budget Office



report found that a 15-dollar national minimum wage could result in employment losses as high as 2.7 million jobs. Since the order was issued, I have already heard from contractors in my district who are now having to consider laying off their employees. One federal contractor located on base at Fort Campbell in my district has hard decisions ahead regarding whether to renew their contracts, knowing the government may step in and mandate an unsustainable wage for their operations. What advice would you provide these business owners and employees who may lose their jobs because of the President's actions?

**Representative Fred Keller (R – PA)**

1. Secretary Walsh, during the Obama administration, OSHA was uniquely antagonistic towards employers, focusing on overzealous enforcement and punishment rather than working with employers to improve workplace safety outcomes and prevent accidents before they happen. This included the policy of regulation by shaming, which involved publicizing the results of an OSHA inspection before a business owner had the opportunity to contest the citations, many of which were ultimately overturned. Unfortunately, we are seeing signs that this practice is making a comeback at OSHA. Do you support the adversarial policy of shaming employers and should businesses expect this lack of due process to continue to be a common practice under your watch at the Department?
2. Secretary Walsh, on March 12, DOL's Wage and Hour Division announced its intention to withdraw the Trump administration's final rule clarifying joint-employer status under the *Fair Labor Standards Act*. This common-sense and workable joint-employer rule uses a four-factor balancing test for determining joint-employer status where an employee performs work for one employer that simultaneously benefits another entity or individual. Prior to this rule, the Obama administration promoted a broad and vague indirect-control joint-employer test. In the March 12 notice, your Department acknowledges that a lack of regulatory guidance in this area may impose additional potential costs on the regulated community.
  - a. Mr. Secretary, how will withdrawing the well-received joint-employer rule serve job creators, small businesses, and workers?
  - b. Have you anticipated the potential uncertainty, costs, and inefficiencies created by this misguided decision?

**Representative Gregory F. Murphy (R – NC)**

1. Secretary Walsh, the current administration has expressed strong support for expanding the number of apprenticeship opportunities available across the country. The Industry Recognized Apprenticeship Program model, also known as IRAP's, was created to provide a more flexible option for employers that find the registered system too cumbersome and expensive. This industry-led, market-driven system was intended to supplement – not supplant – the existing registered apprenticeship system. Unfortunately,

some industries like construction, where high demand for skilled labor has continued even throughout the pandemic, were excluded—and the administration has since cut support for the IRAP program. The registered program, which at best graduates just over 80,000 individuals annually, is clearly not sufficient to meet industry’s need for skilled workers. Funding alone is not enough to fix this problem if employers simply choose not to participate because of administrative burdens. Whether IRAPs or not, will you commit to working with all parties and partners, including those who have traditionally not participated in apprenticeships, to explore options for other flexible models to supplement the registered system that encourage employers in all industries to launch and expand earn-and-learn opportunities?

2. Secretary Walsh, I am certainly disappointed that you will cut funding for the IRAPs program and have declared that you will not approve additional Standards Recognition Entities (SREs), which I believe offered promise as a new and innovative model for apprenticeships. However, I know that the Department has said it will allow existing SREs to continue operating, albeit without funding or additional support from the Department. While I am concerned that this lack of support will lead to these innovative models dying on the vine, I think it offers an opportunity to examine their outcomes to be measured against the registered programs under DOL’s umbrella. Will you share information learned about apprenticeships supported through the SRE model and commit to supporting them if they prove successful at providing more apprenticeship opportunities?
3. With the *Workforce Innovation and Opportunity Act* (WIOA) up for reauthorization, we must consider the fact that currently just over 150,000 individuals receive skills through the federal workforce system every year. This is not a sufficient return on investment of hardworking taxpayer dollars. Beyond just throwing money at this system, it is clear that to fully benefit from and build upon the reforms made in the last reauthorization, the system itself needs to be brought into the 21st century. The most critical piece is to better align the system with employer demands if we want to get Americans back to work. What changes need to be made in order to improve program performance and better streamline delivery of services through the workforce system? I hope you will commit to working with Congress to help maximize the benefits in this system. To that point, when can we expect your recommendations for reauthorization?

**Representative Mariannette Miller-Meeks (R – IA)**

1. In 2018, the Department of Labor issued regulation allowing small businesses and self-employed individuals to access high quality and affordable healthcare coverage through association health plans (AHP). Allowing small employers and self-employed individuals to group together for health insurance purposes allows them to purchase a health plan the same way large employers do. AHPs are subject to all of the Affordable Care Act’s (ACA) group health plan coverage requirements. Data shows that AHPs voluntarily cover all 10 of the ACA’s essential health benefits, and these plans typically have broader provider networks relative to ACA-compliant small-group and individual-market plans. In 2019, the AHP regulations were invalidated by the D.C. District Court, but a review of

that decision is pending at the D.C. Circuit Court of Appeals. If the Circuit Court overturns the District Court ruling and upholds the regulations, will the Department of Labor respect that ruling and implement the regulations, or does the Department plan to rescind these regulations through a new rulemaking process?

2. Secretary Walsh, you were quoted in a Reuters article as saying that gig workers should be classified as employees and deserve work benefits, like full health coverage. This statement had a significant impact on the stock market and caused shares in Uber, Lyft, Doordash, and Grubhub to fall significantly. You later said that you were misquoted. Is that an indication that you recognize this policy could destroy the business model of these companies?
3. Do you still hold the views reflected in the Reuters article, or has your position on the gig economy and gig workers changed?

**Representative Burgess Owens (R – UT)**

1. Secretary Walsh, last year, the Department of Labor issued a safe harbor rule that allows for default electronic delivery of retirement plan documents. Before using this safe harbor, plan sponsors must send a one-time paper notice to plan participants notifying them of the electronic delivery. Plans using the safe harbor must also allow participants to opt into paper copies at no cost to them if they prefer paper. This 2020 rule was finalized after it garnered support from a broad range of retirement savings stakeholders, including several union pension funds.

The shift toward e-delivery allows for cost-effective and convenient access to retirement benefit information. In fact, plan participants with e-delivery have higher levels of engagement with their investments and higher contribution rates that better prepare them for retirement. This final e-delivery rule is a balanced approach that contains important consumer protections and harnesses the ability of electronic communication to increase engagement and retirement savings and also lower costs.

- a. Would you agree that increased online engagement by plan participants has a positive impact on retirement preparedness?
- b. If so, can I count on you to build on this progress and continue efforts to enhance the use of electronic defaults to make it easier for retirement savers to engage early and ensure stronger retirement savings?
2. I understand that the Department is also undergoing a study of the impact of the 2020 rule on seniors and those in the rural area as required by the Consolidated Appropriations Act. This report is due at the end of this year. Will your Department meet that statutory deadline?

**Representative Diana Harshbarger (R – TN)**

1. You have staunchly defended the decision to move forward with a Temporary Emergency Standard, despite the fact that America is reopening and the risk of contracting COVID-19 is significantly reduced? Did you continue this route to fulfil the wishes of Biden's January 21 Executive Order or because you believe that vaccinated workers are not protected against the virus?
2. What is your stance on vaccine passports for Americans entering a place of business without a mask? What about entering a government building?
3. Do you support authorizing the Voluntary Protection Program? If not do you support regulatory elimination?
4. The Biden Administration eliminated the Industry Recognized Apprenticeship Program (IRAP) shortly after the Trump Administration got it off the ground. As you know, the IRAP model provided a less burdensome process and the result was a high number of new apprenticeship programs registering with the Department of Labor under the new model. Why can't you support this kind of innovation in workforce development?
5. What is your message to state governments regarding their occupational licensing requirements? Are there occupational licenses that you would like to see eliminated? If so, please provide a few examples.
6. A number of employers in my district reached out to my office expressing concern with the lack of workers they could secure as a result of the extended unemployment benefits. Thankfully, Governor Lee chose to end these payments early so that businesses can meet their workforce needs. Why don't you support similar decisions being made nationwide?

**Representative Julia Letlow (R – LA)**

1. As I've traveled the District, I've heard from farmers and business owners about the importance of the Department's H-2A and H-2B program. Seasonal workers are vital in helping farmers process their crops and keep businesses running, which in turn benefits the local economy.

While I've heard of significant delays and inconsistency in processing these visa requests, I've been informed of a recent issue that our farmers and seasonal business owners have been facing. It is my understanding seasonal workers are using waivers to abuse the system, leaving farmers and producers who have followed all the rules in a bind.

For example, a farmer may go through the complex approval process, pay many fees to bring a worker to his or her business, and then the worker decides to abandon the original worksite to go to another company. Now the original employer is out of an employee that they were counting on and left footing the bill for someone else. This practice is fundamentally unfair and is significantly hurting farmers and businesses in my District.

One suggestion to address this issue is to allow employers to report seasonal employees who do not show up to their original worksites to the Department of Labor. Then next year as these employees apply for H-2A or H-2B visas, they will have been flagged as deserting their worksite and not be granted a visa for the upcoming season. I believe denying applications of unreliable seasonal workers will help curb this abuse.

Secretary Walsh, what do you think about this proposal and what can the Department do to curb this abuse of the seasonal worker system?

[Responses by Secretary Walsh follow:]

Committee on Education and Labor Hearing  
**“Examining the Policies and Priorities of the U.S. Department of Labor”**  
 Wednesday, June 9, 2021  
 12:00 p.m. (Eastern Time)

**Chairman Robert C. “Bobby” Scott (D – VA)**

*Question 1*

Secretary Walsh, what is the Department’s plan to implement the President’s call for increasing the minimum wage to \$15 for federal contractor employees?

*The Department is engaging in notice and comment rulemaking to promulgate regulations to implement Executive Order 14026, which increases the hourly minimum wage for workers performing on or in connection with covered federal contracts to \$15 beginning January 30, 2022. The Executive Order directs that the Department issue regulations by November 24, 2021. The Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on July, 22, 2021. Contractors, workers, and other interested parties have the opportunity to comment on the NPRM, with comments due by August 27, 2021.*

*Question 2*

Secretary Walsh, how will the investments proposed in the FY2022 Budget and the American Jobs Plan fulfill the needs of our nation’s youth, including summer jobs?

*The President’s Budget proposes a dedicated \$50 million for a National Youth Employment Program specifically for summer and year-round employment programs. These funds will be awarded via a competitive process and focus on providing justice-involved youth and other in- and out-of-school opportunity youth with barriers to employment. The Budget also proposes approximately \$964 million in funding for the WIOA Youth program, which provides youth, particularly out-of-school youth, with comprehensive services both during the summer and year-round that prepare them for employment and postsecondary education. This represents an increase of over \$42 million from the FY 2021 appropriated level, and strengthens established programs operated by states and local workforce areas. This is on top of the more than \$1.7 billion spent annually on Job Corps, which provides youth with intensive education, training, and additional services, including in a residential setting, to prepare them for meaningful careers. The Budget also proposes \$145 million for YouthBuild, an increase of more than \$48 million, which will support approximately 115 grants that provide disconnected youth with work readiness and industry-driven credential attainment opportunities, particularly in the construction trades. In addition, the Budget proposes \$150 million for Re-entry Employment Opportunities, of which at least \$25 million will be used to provide justice-involved juveniles and young adults with occupational skills training leading to industry-recognized credentials and apprenticeships that lead to employment.*

*Question 3*

Secretary Walsh, due to a lack of funding only about 30% of individuals who interacted with the workforce system in the last year were able to access training, even though the workforce system faced massive demand during the pandemic. Should a workforce development trust fund be established which would be triggered when regions or even the entire country suffer large-scale unemployment? The idea being that counter cyclical fiscal measures could kick in without waiting for Congress to respond.

*The workforce system has been chronically underfunded, which is why the President's Budget and Build Back Better agenda proposes significant investments in America's workers. I welcome the chance to discuss further with the Committee ideas to quickly expand access to high-quality workforce development services to more people in times of high need.*

*Question 4*

Secretary Walsh, as you know, the Office of Federal Contract Compliance Programs is tasked with auditing affirmative action plans for government contractors. Is it the case that only 2 percent of affirmative action plans are audited? If so, what can be done to make sure this office is more effective in ensuring that the federal contractor workforce is qualified, inclusive, and looks like America when it comes to hiring and promotions?

*Between FY 2013 – FY 2020 OFCCP scheduled 1% - 3% of contractor establishments for compliance evaluations.*

*OFCCP's top priority is to rebuild the agency's capacity and strengthen its enforcement. Over the past four years, OFCCP's staffing levels have dropped 40% from 2011. In FY 2020, OFCCP operated with a staffing level of 452 full-time equivalents (FTE) compared to 755 in FY 2011. The FY 2022 OFCCP funding request is \$141 million and 639 FTE. This includes a program increase of approximately \$35 million and 188 FTE to rebuild OFCCP's workforce. This funding request specifically supports the hiring, retention, and training of a highly qualified and diverse workforce to support OFCCP in advancing its mission through enforcement, outreach and education, stakeholder engagement, and compliance assistance while emphasizing efficiency, productivity, and accountability throughout the organization. The support for additional staff will enable OFCCP to strengthen its capacity to conduct compliance evaluations.*

*In addition, the agency has developed a verification process under review by OMB that, if approved, will require federal contractors to self-certify that they have developed and maintained an Affirmative Action Program (AAP) for each of their establishments. The goal of this self-certification requirement is to increase the percentage of contractors timely completing their AAPs and to strengthen OFCCP's enforcement. A GAO audit in 2016 found that close to 85 percent of evaluated contractor establishments did not submit their AAPs within 30 days of OFCCP's request during compliance evaluations. The failure of contractors to provide a timely AAP during compliance evaluations is one of the main obstacles to OFCCP's efficient and timely enforcement.*

*The AAP provides the foundation for the agency's analysis of contractors' workforce composition, EEO policies and personnel selections. During compliance evaluations, OFCCP reviews the contents of contractors' AAPs to assess compliance with OFCCP's regulations, including whether there are indicators of potential discrimination in contractors' personnel decisions, including hiring, promotions, and terminations. The agency uses both statistical tools and on-site investigations to identify problem areas. For example, as a result of a compliance evaluation, OFCCP recently entered into a conciliation agreement to remedy compensation disparities against 22 women engineers at Bechtel Oil, Gas and Chemical (BOGC) located in Houston, TX. The agency's analyses indicated that women were concentrated in the lower paying salary grades in the Engineering group. The agency also found that women received lower starting salaries and merit increases when compared to men. The case settled with \$200,000 in back pay and \$50,000 in salary adjustments for 22 women engineers in various positions.*

**Representative Gregorio Kilili Camacho Sablan (D – MP)**

*Question 1*

Secretary Walsh, Form 1099G is used to report unemployment compensation received during a tax year. However, there are Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation recipients that have reported their disbursements not matching what is indicated on the online portal or the issued 1099G. On January 28 of this year, the CNMI issued several incorrect 1099Gs - this was followed up by a corrective statement requesting recipients to disregard the 1099G. Is the department aware of the discrepancies surrounding the CNMI's Form 1099G and the disbursement amounts not matching? Has the department taken any action to remediate the issue?

*The CNMI informed the Department that all claimants that received Pandemic Unemployment Assistance (PUA) and Federal Pandemic Unemployment Compensation (FPUC) benefits for calendar year 2020 were issued 1099-Gs, but did not report any 1099-G forms that it had issued incorrectly. However, the CNMI reported to the Department that there were several CNMI claimants who were erroneously issued 1099-Gs from Guam. The CNMI and Guam share an IT vendor (Geographic Solutions) that created both territories' online PUA portals. Due to technical issues in the two territories' PUA portals, beginning around November 2020, some CNMI claimants were erroneously identified as Guam claimants and paid using Guam's PUA funds, which led to Guam issuing these erroneous 1099-G forms for CNMI claimants. Since November 2020, the CNMI has identified approximately 402 CNMI claims that were erroneously considered Guam claims. While some of the affected claims were identified before the end of 2020, others were not identified until the CNMI claimants contacted the CNMI DOL about receiving 1099-Gs that did not match what was indicated on the CNMI PUA portal.*

*After the CNMI staff mentioned these issues during a biweekly meeting in May, the Department arranged a meeting for the Department, the CNMI, Guam, and the IT vendor to discuss the issues. The four parties met June 9, 2021, and the Department has held additional meetings and e-mail exchanges with the CNMI and with Guam to discuss the issues. The Department has also continued to liaise with the CNMI and Guam to identify every affected*



claimant, to fix the 1099-Gs, to handle the erroneous payments from Guam's PUA funds and reimburse Guam for payments to the CNMI claimants, and to stop any future errors. The Department maintains communication and interacts with CNMI several times weekly. CNMI has assigned several staff to work on 1099 discrepancies, including working with individuals. CNMI is working on the information Guam provided, and does contact Guam with questions and/or additional needs.

#### Question 2

Secretary Walsh, the Marianas labor market relies heavily on foreign labor. Long term parolees and CW-1 workers in the Marianas are eligible for Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation. However, individuals that have successfully transitioned to CNMI Long Term Resident status during the pandemic are being informed by the Commonwealth's Government that they are no longer eligible for Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation and are having their benefits cut off. Does the department view CNMI Long Term Residents as eligible for Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation?

Generally, an individual in the CNMI must be a "qualified alien" under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) to receive benefits under the Pandemic Unemployment Assistance (PUA) program. Individuals with CW-1 status became eligible for PUA benefits with the enactment of Section 265 of the Continued Assistance to Unemployed Workers Act, Pub. L. 116-260 (2020). While parolees (under the definition of "qualified alien") and CW-1 visa holders are eligible to receive PUA, CNMI Long-Term Residents are not among the specifically enumerated categories that are defined as "qualified aliens" under PRWORA or specified in the CARES Act amendments, and are therefore ineligible.

#### Question 3

Secretary Walsh, the Marianas is considered a state for the purposes of the Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation programs. And it is known that the Marianas does not operate an unemployment insurance program. Therefore, it would be a reasonable expectation that your department would provide more guidance to the Commonwealth's Government beyond what a state that has an operational unemployment insurance system may have needed. What direct assistance and training has the Department provided to the CNMI since the program began in March 2020?

The Department of Labor's Employment and Training Administration (ETA) has provided ongoing, comprehensive and detailed technical assistance to CNMI for the Pandemic Unemployment Assistance (PUA) and Federal Pandemic Unemployment Compensation (FPUC) programs under the CARES Act. The consistent communication started in March 2020 and has included scheduled or ad hoc conference or video calls at least twice a week since that time. The engagements with CNMI have included the program, fiscal, and operations staff in CNMI, and ETA also hosted multiple webinars targeted specifically to the needs of the Pacific Territories. ETA continues to dedicate multiple subject matter experts at the national and

regional level to assist CNMI with CARES Act programs' implementation. The federal PUA team includes experts with extensive state unemployment insurance and Disaster Unemployment Assistance (DUA) experience. This team includes attorneys, unemployment insurance program specialists, and grants management experts.

**Representative Ilhan Omar (D – MN)**

*Question 1*

Secretary Walsh, I was happy to see that the Administration is requesting an increase of more than 25 million dollars to Bureau of International Labor Affairs (ILAB). But, as I'm sure you know, ILAB as an organization within DOL is not authorized to carry out all of its functions, even though it implements parts of many different statutes. ***Would you support legislation to authorize the important work of ILAB? Do you believe that ILAB will have sufficient resources and mandates in this budget proposal to enforce labor provisions in new and existing trade agreements while also engaging in global efforts to combat forced labor and human trafficking?***

*ILAB plays a vital role in enforcing trade commitments, fighting child labor and forced labor, and promoting more equitable, inclusive growth around the world. ILAB's efforts safeguard the dignity of work, both at home and abroad. ILAB has carried out its important work for more than 70 years, but it has not yet been formally authorized by Congress in legislation.*

*The Administration's request for an additional \$28 million for ILAB reflects the priority it places on promoting the rights of workers, ensuring adherence to labor provisions in our trade agreements, protecting and strengthening trade unions, and supporting the elimination of child labor, forced labor and human trafficking around the world. This funding level will allow ILAB to more effectively carry out the Administration's objectives in these areas.*

*As we continue to aggressively pursue opportunities to advance worker rights, we would welcome further dialogue with the Committee on ILAB's work.*

*Question 2*

Whether it's in meatpacking facilities or Amazon warehouses, workers in my district and across the country have been contracting COVID-19 and dying at alarming rates. To curb the abuse and negligence of workplace safety violators, Occupational Safety and Health Administration (OSHA) has the authority to fine such companies, but these penalties haven't acted as effective deterrents for multi-billion-dollar corporations. ***Mr. Secretary, would you support a significant increase in the maximum civil monetary penalty so that larger employers would see OSHA fines as something other than the cost of doing business?***

*OSHA penalties are set by Section 17 of the OSH Act and are subject to inflation adjustment under the Federal Civil Penalties Inflation Act Improvements Act of 2015. OSHA is committed to carrying out Congress's mandate and assessing penalties in situations where employers violate the requirements of the OSH Act or any standard, rule, regulation, or order promulgated or*

*prescribed pursuant to the Act.*

*Our goal is to prevent accidents before they happen, but unfortunately some employers do not appropriately protect the health and safety of their employees, as required by the OSH Act and its standards and regulations, and, in those cases, the assessment of penalties is absolutely appropriate.*

*Adjusting maximum OSHA penalties for inflation has been helpful in allowing OSHA to propose penalties that can act as an effective deterrent for most employers. They are not always adequate, however, to deter the very largest employers in this country. For these multi-billion dollar corporations, even the maximum \$136,532 penalty that can be assessed for a willful violation does not have a significant impact. We would therefore support a more substantial increase in penalties that would allow for an effective deterrent for these large employers.*

#### *Question 3*

While I was relieved to hear that OSHA would issuing an emergency temporary standard, like many labor advocates and Members of the Committee, I was disappointed by its scope and late timing. I'm not going to ask the repetitive question of why this is the case, but I do want to know – **Mr. Secretary, what do you think could be some more proactive and preventative measures that OSHA should be taking to better prepare us for the next pandemic?**

*OSHA is continuing to work on an infectious disease standard that would cover infectious disease safety both during a pandemic and in everyday scenarios. OSHA consults with the Center for Disease Control often regarding the state of the pandemic and will continue to do so.*

*OSHA is also evaluating its response to the COVID-19 pandemic and will use this knowledge to develop best practices regarding how to handle infectious disease hazards in the workplace in the immediate and long-term future. OSHA has learned a great deal over the past year and has changed and updated our own safety and health management systems for our own employees. This ensures that OSHA will be better prepared to handle pandemics in the future and will allow us to continue to fulfill our mission in such an environment.*

#### **Representative Joaquin Castro (D – TX)**

##### *Question 1*

Secretary Walsh, the last administration seriously weakened the capacity of the Occupational Safety and Health Administration (OSHA), leaving many vulnerable as COVID-19 swept through our nation. However, beyond COVID-19, we need a strong OSHA to ensure everyday workplace safety and health. Yet, OSHA is not mandated to conduct offsite interviews with employees at worksite inspections, which can impede investigators from fully understanding the fully scope of worksite conditions. Would you commit to conducting offsite interviews to ensure OSHA is adequately looking into health and safety issues at worksites?

*The President is calling for increased penalties when employers violate workplace safety and*

*health rules. OSHA is committed to providing a safe environment for all workers to participate in investigations. The OSH Act provides OSHA with the right to speak with workers privately, and OSHA's Field Operations Manual directs OSHA inspectors and investigators to speak to workers to get their input on the conditions at their workplaces. Most interviews are done onsite, during the walk-around portion of OSHA inspections, but in appropriate cases, OSHA has interviewed workers offsite, and absolutely commits to continuing this practice.*

*OSHA will also continue to work with outside advocacy groups, as well as other employee representatives, to ensure vulnerable workers are comfortable when providing investigators with information.*

#### *Question 2*

Secretary Walsh, this Congress, the House passed my amendment to the National Apprenticeship Act, which would encourage your Department to expand and support apprenticeships in the media and entertainment industry. This measure will help boost diversity in this image-defining and narrative-creative industry where Latinos, Asian Americans, African Americans, and other communities of color have historically lacked access. **Will you commit to supporting the expansion of apprenticeships in the media and entertainment industries?**

*The Department strongly supports Congress' interest in expanding, diversifying, strengthening, and modernizing Registered Apprenticeship as an employer-driven and proven workforce strategy, and is committed to exploring possibilities for expanding Registered Apprenticeship opportunities in the media and entertainment industries, particularly for communities of color. The Department recognizes the need to expand apprenticeships in those sectors where such programs are not currently widespread -- including in the media and entertainment industries -- as well as the need to increase access to such programs for underrepresented populations to ensure equal opportunity and equity in apprenticeship. As our nation becomes increasingly more diverse, the need to expand quality registered apprenticeships in the media and entertainment industries is vital to ensuring the creation of more inclusive and diverse content where individual differences are represented and valued.*

*The Department supports the registration of all apprenticeship programs that meet the requirements of its regulations at 29 Code of Federal Regulations (CFR) part 29, subpart A (Registered Apprenticeship Programs), and 29 CFR part 30 (Equal Employment Opportunity in Apprenticeship), and is committed to maintaining, diversifying, and expanding high quality apprenticeships throughout the nation. The Department also advocates the expansion of registered apprenticeship programs as a proven workforce development model that can promote the increased mobility and remuneration of American workers, while also advancing diversity and equity in the workplace. President Biden's FY 2022 Budget calls on Congress to make substantial investments over ten years in American workforce development infrastructure and worker protection; this includes investments in registered apprenticeships and pre-apprenticeships, thereby creating one to two million new registered apprenticeships slots during that period. In addition, President Biden's Executive Order 14016 (86 FR 11089, February 17, 2021) demonstrated the Administration's strong commitment to the registered apprenticeship*

model by directing the Department to consider taking steps to rescind the final rule on industry-recognized apprenticeship programs (IRAPs) that was issued on March 11, 2020 (85 FR 14294).

Currently, the number of Registered Apprenticeship programs in the media and entertainment industries is limited, with a primary focus on theatre production occupations. Nevertheless, the Department will explore opportunities to provide grant or other funding opportunities to eligible applicants to support the development and expansion of Registered Apprenticeship programs in the media and entertainment industries, and also to increase the number of apprentices from underrepresented populations enrolled in such programs.

#### Question 3

Secretary Walsh, as part of the Workforce Investment and Opportunities Act reauthorization, the Committee is looking at expanding career services, including career navigation supports, which has shown to be crucial to workforce development in my district. **Why are these services so important to job seekers, and should these supports be available even once people have found a job, especially individuals with barriers to employment?**

*Evidence demonstrates that intensive, staff-assisted career services improve employment outcomes. (See Fortson, Kenneth, et al. (2017) [Providing Public Workforce Services to Job Seekers: 30-month Impact Findings on the WIA Adult and Dislocated Worker Programs](#), MPR, pp. xxvi-xxx.) These services, which include career information, skills and needs assessments, and job search assistance, help jobseekers make informed decisions about the jobs they enter and training or education they may later pursue. In order to support individuals' success in employment, wrap-around and follow-up services to address any barriers, such as support to solve transportation and child care challenges and help navigating a new work environment, are crucial. Such post-employment temporary supports are also a key business service, helping businesses reduce turnover and improve employee productiveness. While these are currently allowable services, we hope to see further increase or emphasis on support services along with increased support for actual training dollars.*

#### **Representative Mikie Sherrill (D – NJ)**

#### Question 1

Secretary Walsh, the immense challenges in administering critical unemployment insurance programs throughout the COVID-19 pandemic have made clear that the federal government must help states to modernize their unemployment systems. President Biden included funding for such efforts in the American Families Plan, and several pieces of legislation have been introduced in Congress to support this effort.

- a. What steps is the Department of Labor currently taking to support large-scale UI modernization efforts across the nation? How will the American Families Plan help with these efforts?
- b. Has the Department released a specific timeline as to when this federal modernization

effort will be carried out? We are concerned that the longer the Department waits, the more states are going to go it alone with their modernization efforts, making it more difficult to create a relatively standardized national system that is easy to access.

*The Department welcomes the \$2 billion that Congress provided in the American Rescue Plan Act and agrees that UI technology and infrastructure modernization is urgently needed. It is critical that state systems operate on a high quality technology infrastructure that enables them to administer their UI programs in an equitable and efficient manner so all eligible unemployed workers have timely and meaningful access to this vital benefit. On August 12, 2021, DOL announced a series of actions we are taking to implement this legislation, which includes announcing more than \$700 million in grants to fight fraud, promote equity, and provide critical technical assistance. Additional actions that will be taken with the \$2 billion Congress provided include:*

- **Direct technical assistance through “Tiger Teams”.** Multi-disciplinary Tiger Teams, composed of experts across many disciplines including fraud specialists, equity and customer service experience specialists, UI program specialists, behavioral insights specialists, business intelligence analysts, computer systems engineers/architects and project managers, will deploy to states to conduct intensive discovery assessments, provide resources for identification verification and propose solutions to address fraud and equitable access.
- **Tools to address immediate fraud concerns.** Identity verification is a critical tool in paying unemployment benefits to eligible individuals. Yet too few states have the resources, expertise, and capacity needed to effectively work with vendors to address the wide-ranging attacks that the UI system has experienced from organized criminal enterprises. The department issued a blanket purchase agreement to work with three vendors to employ cross-matching technology to verify applicants’ identities at the time of filing for unemployment programs and tools to identify suspicious attributes after claims are filed. LexisNexis, TransUnion and V3Gate partnering with ID.Me are all compliant with the National Institute of Standards’ Identity Assurance Level 2 and Authenticator Assurance Level 2, and these vendors will work with states to: develop identification verification options that do not require computer access, offer customer service in claimants’ native languages and provide accessibility standards to serve the disability community.
- **Modernizing antiquated state technology.** The pandemic has only underscored states’ desperate need for technological support and improvements. Many state systems are operating on outdated technology, which made it difficult for them to rapidly respond to changes in law and economic conditions. The department has partnered with the U.S. Digital Service to start the transformative project of centrally developing open, modular technology solutions that states may adopt as part of ongoing modernization and improvement efforts. Additional plans included shared IT solutions designed to integrate with state systems and provide software to support end-to-end administration of UI, including benefit delivery, employer tools and appeals and working with states’ IT staff to develop and implement plans that build resilience in UI systems across the country.

*Additionally, the President's 2022 Budget includes a set of principles that should serve as the basis for any major reform of the UI system and thinking about modernizing UI. Those principles include:*

- *Ensuring adequate benefit levels and duration for unemployed workers;*
- *Ensuring the UI system can ramp up quickly and automatically in response to recessions;*
- *Addressing the lack of access to UI for workers misclassified as independent contractors, low-income and part-time workers, and workers with non-traditional work histories;*
- *Ensuring the long term solvency of UI trust funds;*
- *Investing in expanded reemployment services; and*
- *Improving UI program access and integrity.*

*This Biden-Harris administration is focused on fixing both the short-term issues with the Unemployment Insurance system - regarding equitable access, timeliness, and rooting out the fraud plaguing the system, while also creating a framework, using the principles outlined above, for a more resilient and equitable system for the long term.*

#### *Question 2*

Secretary Walsh, women and working mothers have been particularly negatively impacted by the COVID-19 pandemic. They have lost the majority of jobs during this crisis, emphasized by April's jobs report in which men gained 336,000 jobs and women actually lost 8,000, and have also shouldered much of the burden in fighting COVID-19 as essential workers. A study featured in the New York Times last fall also found that 1.6million women had left the workforce due to school and daycare closures.

- a. How can Congress, alongside the Administration, assist women and particularly working mothers in re-entering the workforce over the next year and in the long-term?
- b. The workforce development and apprenticeship systems have historically served very few women, reducing their ability to obtain good, high-paying jobs. How will the \$100 billion in workforce funding within the American Jobs Plan, as well as the National Apprenticeship Act, help to support women in the workforce?
- c. Finally, difficulties in accessing affordable childcare is a major barrier for many women in the workforce. How is the Department of Labor trying to address this issue, and what impact will the funding for childcare within the American Families Plan have for working women?

*As COVID-19 cases continue to rise again as a result of the Delta variant, increasing vaccination rates is critical to helping the economy and enabling more women to return to the workforce. A full and equitable recovery for women, particularly for mothers and caregivers who have been singularly hard-hit, must necessarily achieve simultaneous objectives: (1) Break down barriers and disrupt long-standing patterns of occupational sorting that concentrate women disproportionately in lower-paying occupations and industries with limited benefits and*



pathways for advancement; and (2) Implement a coordinated system of work/family support policies, to include a federal program for paid family leave and quality, affordable, accessible child care options, that make it possible for working parents to earn the paychecks they need while delivering on the needs of the families they love.

The FY 2022 Budget renews DOL's commitment to help American workers and job seekers, including women, get back on their feet, access job training, and find pathways to high-quality jobs that can support a middle-class life. In Program Year (PY) 2019 (July 1, 2019 – June 30, 2020), the Workforce Innovation and Opportunity Act (WIOA) programs served 3,409,790 participants. Of those participants served, 1,609,610 participants were women (47 percent).

As the Biden Administration and Congress continue to make investments necessary to expand apprenticeship programs and to ensure that women and other underrepresented populations have access to these programs, the Department remains fully committed to creating a diverse, equitable, and inclusive National Apprenticeship system. While women currently comprise 12.5 percent of registered apprentices – the highest proportion of apprentices recorded to date – the Department recognizes that this percentage is still far too low. Recent investments have been designed to accelerate the participation of women in Registered Apprenticeship programs; for example, women make up approximately 24 percent of all apprentices as part of the American Apprenticeship Initiative grants. Building on that effort, the Department recently awarded over \$99 million in State Apprenticeship Expansion, Equity, and Innovation grants to bolster states' efforts to expand programming and inclusive recruitment strategies to attract a diverse workforce. The awards include more than \$85 million for states that demonstrated a commitment to increase their diversity, equity and inclusion efforts. The Department also awarded nearly \$31 million for Registered Apprenticeship (RA) Technical Assistance (TA) Centers of Excellence, of which \$13 million will support the establishment of a Diversity and Inclusion RA TA Center of Excellence. This Center will focus on the Administration's goals to provide technical assistance to employers and Registered Apprenticeship stakeholders to increase diversity and inclusion within Registered Apprenticeship Programs (RAPs) among underrepresented populations.

Since 2017, the Women's Bureau has awarded nearly \$8.5 million to 17 community-based organizations (CBOs) through the Women in Apprenticeship and Nontraditional Occupations (WANTO) grant program, \$4.1 million of which was awarded last year alone, to encourage women's employment in apprenticeships, pre-apprenticeships and related occupations where they have been historically underrepresented. The Department has also worked to increase awareness among state officials, employers and other workforce intermediaries of the allowable uses of federal workforce funding to subsidize supportive services like child care, transportation assistance, and peer-based mentorship, all of which help facilitate the participation of women in apprenticeship. In addition, the Department has, and will continue, to ensure robust enforcement of the regulations governing equal employment opportunity within the Registered Apprenticeship program.

The proposed National Apprenticeship Act of 2021 (H.R. 447), which passed the House of Representatives on February 5, 2021, offers a unique opportunity for the Department to ensure underrepresented populations including but not limited to women, women of color, women with disabilities, and women who have been incarcerated, are included in this unprecedented new



*funding. The President's Build Back Better agenda provides another opportunity to improve the representation of women and minorities in a variety of non-traditional occupations and industries. The proposed investments in youth apprenticeships, pre-apprenticeships, and Registered Apprenticeships across a variety of industry sectors would further enhance the participation of women in these valuable workforce training programs. In addition, in keeping with the provisions of Executive Order 11246, Federal Highway Act and other policies, there is precedent for delineating equitable representation standards and provisions for federal construction and infrastructure procurements. The bipartisan infrastructure deal has the potential to spur much-needed infrastructure investments powered by work teams that reflect the diversity of our national workforce.*

*We agree with you on the critical importance of childcare to women's employment. A recent [review](#) of research on childcare costs and women's labor supply finds that a 10 percent decrease in the cost of childcare to families leads to a 0.5 to 2.5 percent increase in mother's employment. According to OECD data, in the United States a single parent with two young children making two-thirds of the average wage spent about 35 percent of household income on childcare in 2020. The American Family Plan would limit such a family's childcare costs to 7 percent of income. Estimates from the review mentioned above imply that this cost reduction could increase employment for these parents by between four and 20 percent.*

*The Department shares your concerns about the extended closure of childcare centers across the country because of the profound impact on women in the workforce who have been forced to choose between employment and childcare. Mothers of young children had the steepest reductions in employment during 2020. Among mothers with children under the age of 13, 1.2 million fewer mothers were working in April 2021 compared to February 2020, representing loss of about 7% of employed mothers ages 25-54. According to the Census Bureau's Household Pulse Survey, in May 2021, 4.1 million women lived in households where children were unable to attend daycare or another childcare arrangement in the past 4 weeks due to the pandemic. Of these households, 1 million reduced work hours, 1 million left or lost a job to take care of children, and 763,000 did not look for work in the past 4 weeks due to childcare constraints. Another example of how the pandemic has unfairly affected women workers are childcare center workers who themselves have been uniquely burdened. The vast majority of childcare workers are women, which means that these workers and their families are significantly impacted by the economic loss due to these closures. Helping childcare workers get back to work, and elevating those positions with more attractive pay and benefits, not only alleviates the burden on these women, but attracts more workers to these roles, alleviating the burden on all working mothers in need of child care. The WB is particularly focused on this topic. About 95% of childcare workers are women. Other studies show that nearly 15% of childcare workers live in households with an annual income below the federal poverty line, and 37% have household incomes below 200% of the federal poverty level.*

*Employment in the child day care services industry declined by 11% when comparing February 2020 and June 2021 employment. It is imperative that they open for the sake of their own workforce and the communities they serve. It is also critical that changes be made at these centers that would benefit the women who work there, starting with increased wages and access to benefits.*

*The WB has historically taken a role in drawing attention to the need for affordable, quality childcare to ensure women workers can be fully and consistently attached to the labor force. The WB over the years has forged relationships with the business community, childcare advocates, state and local governments and other federal agencies.*

*The WB has undertaken a major data collection and analysis effort in order to better understand the impact of childcare costs and affordability on women's employment. The National Database of Childcare Costs (NDCC), a first of its kind, will provide detailed data on childcare prices in local areas so that WB, researchers, and policymakers can determine how childcare prices impact employment in communities across the United States and formulate policy interventions. Due to lack of data availability, existing research on childcare costs has been forced to rely on state-level data. Yet, we know this underestimates the costs of childcare in urban areas, which tend to be significantly more expensive than rural areas. In fact, costs vary significantly from county to county.*

*The NDCC will provide county-level data on childcare prices by age of children and type of care provider, along with demographic and economic data from the American Community Survey (ACS) over the years 2011 to 2018. Price data are derived from state market rate surveys (MRS), which were collected from states from 2019-2020 through a WB contract and the support of the Department of Health and Human Services (HHS). The database also includes publicly available data from ACS on county demographic and economic characteristics and supports calculation of the percentage of median household income childcare costs represent at the county level.*

*Additionally, DOL/WB advised HHS on guidance they provided states when disbursing the \$39 billion in American Rescue Plan Act (ARPA) funds for childcare. While states have discretion over these expenditures, \$15 billion of this funding is designed to subsidize the cost of childcare for families, and \$24 billion will go to help stabilize child care providers so that they can get back up to full service. These funds also will allow the centers to prioritize the health and safety of their employees and the kids and families in their care, and the states will have flexibility to apply funding towards pay and benefits increases.*

**Ranking Member Virginia Foxx (R – NC)**

*Question 1*

Mr. Secretary, DOL has requested a topline budget of \$14.2 billion in discretionary budget authority for FY 2022, an increase of \$1.7 billion over FY 2021 enacted levels. Unfortunately, only \$7.1 million—or less than 1 percent—of that increase is directed towards the Office of Labor-Management Standards (OLMS), which provides workers with transparency in the workplace by administering and enforcing reporting requirements under the LMRDA. From fiscal years 2000 to 2019, OLMS investigations led to 2,297 indictments, 2,166 convictions, and \$156 million dollars in restitution in 2,100 criminal cases. In light of this demonstrated record of effectiveness and need related to investigations of union corruption, how will the Department's paltry budget request for OLMS protect union members from financial crimes including fraud

and embezzlement?

*The President's FY 2022 Budget provides the largest single-year OLMS increase in both nominal and real dollars since at least 1987 and would fund OLMS at a higher level than anytime from fiscal years 2000 to 2019.*

*Question 2*

Secretary Walsh, Republican Members of the Committee have long supported DOL's Office of Labor-Management Standards (OLMS) and its core mission to ensure transparency and organizational accountability for members of labor unions. During the Trump administration, OLMS worked to achieve greater levels of union transparency through actions such as the reestablishment of the International Compliance Audit Program (I-CAP). This program, which was unfortunately discontinued by the Obama administration, provides valuable compliance assistance to national and international unions while evaluating their compliance with the criminal and civil provisions of the LMRDA, ensuring the nation's largest unions are as transparent and accountable as their smaller counterparts. Mr. Secretary, please describe the importance of I-CAP and how you will commit to continue vigorously supporting this important program?

*The I-CAP program is first and foremost an audit program and secondarily a compliance assistance program. OLMS has had another more specific international union compliance assistance program – the Voluntary Compliance Partnership (VCP) – in place since 2010, which now includes 44 international unions. It is an important program that helps international unions in turn help their affiliates meet the reporting requirements of the LMRDA. The audit component of the I-CAP program is also an important program and it is up and running. Based on findings made by the DOL Inspector General, OLMS has developed a screening mechanism to identify international unions whose LM reporting contains “red flags” that are often – but not always – associated with improper financial conduct. By using this screening technique, OLMS has been able to use its resources more efficiently to explore whether international unions are victims of crimes committed against them.*

*Question 3*

Secretary Walsh, the Office of Labor-Management Standards (OLMS) plays a critical role in empowering workers by requiring union reporting of organizational finances, which allows workers to see how their union dues are spent. Unfortunately, we continue to see rampant union corruption, such as the recent UAW scandal in Michigan, which resulted in the convictions of 15 individuals associated with the union. Their crimes included financial kickbacks to business executives and spending workers' dues that were intended for a workforce development fund on excesses including a Ferrari, a \$1,100 pair of shoes, and two \$37,000 gold pens. Recently, the new director of OLMS told Bloomberg Law that he would use taxpayer-financed union disclosure data to actually promote labor unions while fighting efforts to use the same data to identify instances of union corruption. Secretary Walsh, is it appropriate for OLMS, which is charged with collecting non-partisan data related to union financial activities, to use taxpayer money for a public relations campaign to promote labor unions while ignoring documented

instances of union corruption uncovered by these same disclosures? Shouldn't OLMS focus instead on its core missions of promoting transparency and union financial integrity?

*It is part of the role of OLMS to investigate instances of union officer and employee and employer officer and employee violations of the laws related to labor management relations and it continues to do that work. Since the current director has been in office, investigations in which OLMS has been involved have led to 23 new indictments of union or employer officials who allegedly violated the laws relating to labor management relations. But, consistent with the purpose of the LMRDA, it is also appropriate for OLMS to report on its work in the broader context of labor-management relations generally.*

*Question 4*

Secretary Walsh, you have publicly endorsed H.R. 842, the *Protecting the Right to Organize Act*, which among its many provisions would codify the discredited Obama-era persuader rule, which sought to impose highly intrusive and burdensome employer and employer-consultant reporting requirements related to union organizing campaigns. The persuader rule was ultimately struck down by a federal judge. This discredited policy, which is opposed by the American Bar Association, would overturn more than 50 years of precedent and undermine confidential attorney-client relationships and the right to counsel, even in cases where the attorney or advisor has no direct contact with employees. Do you support reinstating the persuader rule and does your Department have plans to do so?

*OLMS continuously reviews its reporting and disclosure program to ensure that valuable information is fully disclosed and that paperwork burden is reasonable in light of the benefits to the public. As a whole, OLMS' regulations and proposals benefit both employers and employees by requiring disclosure and transparency from labor organizations, employers and labor relations consultants.*

*Question 5*

Secretary Walsh, in 2017, the Department announced the reinstatement of the Wage and Hour Division's (WHD) longstanding practice of issuing opinion letters to provide fact- specific legal guidance to stakeholders seeking assistance, a division practice of more than 70 years. Business owners rely on these letters as they seek to comply with our wageand hour laws. WHD issued more than 70 opinion letters during the Trump administration. However, your Department has withdrawn several of these letters and no new letters have been issued since Inauguration Day. Will you commit to continue the longstanding practice of issuing opinion letters, which have been clearly demonstrated as effective tools to increase employer compliance with the laws in the Department's jurisdiction?

*Opinion letters are one of the many ways that the Wage and Hour Division provides employers and employees guidance about their obligations and rights under the law. The Wage and Hour Division continues to accept and review requests for opinion letters.*

*Question 6*

Secretary Walsh, earlier this spring you were quoted as saying “a lot of” gig workers should be classified as employees, and on May 6 the Wage and Hour Division published its withdrawal of the Trump administration’s final rule clarifying the classification of independent contractors and employees under the *Fair Labor Standards Act*. The rule adopts an economic realities test, with a focus on actual practices, instead of those which are theoretical or contractual, when establishing a worker’s classification as employee or independent contractor. During the public comment period on the rule, the Department received 230 comments from individual workers identifying themselves as independent contractors, with 200 expressing support for the rule and only eight expressing opposition. Additionally, according to the Bureau of Labor Statistics, fewer than one in 10 independent contractors would prefer a traditional employment relationship. How does repealing the current rule respect and reflect the wishes of these workers and others like them who value the flexibility and entrepreneurial opportunity offered by independent contracting?

*The Department recognizes that properly classified independent contractors play an important role in our economy. However, the Department is focused on addressing the misclassification of employees as independent contractors. Misclassification deprives workers of important workplace protections including collective bargaining rights, minimum wage, overtime pay, family and medical leave, unemployment insurance, and safe workplaces.*

*Question 7*

Mr. Secretary, you have publicly endorsed calls for a \$15 national minimum wage. As you know, a 2021 Congressional Budget Office report found that raising the national minimum wage to \$15 could result in employment losses as high as 2.7 million jobs, with young, less educated individuals accounting for a disproportionate share of those losses. Additionally, over the past several months, our economic recovery has shown disturbing signs, with unemployment rising in April, continued signs of economic turbulence and fears of inflation in May, and overall job creation falling well below expectations in both months. In fact, small businesses are now being forced to pay higher salaries than they can afford because the federal government is paying many workers to stay home because of ill-advised and unnecessary unemployment insurance payments. In light of these realities, how can you support a \$15 national minimum wage, which would continue to kill millions of jobs and deny countless individuals job opportunities which provide a key rung on the ladder to successful careers?

*An increase in the minimum wage would lift many Americans out of poverty, achieve greater racial and gender pay equality, and provide fairer wages for those workers most affected by the COVID-19 pandemic. I would also note that the same CBO report you cite in your question found that as many as 27 million workers could see pay increases. The President is committed to raising the minimum wage, and so am I.*

*Question 8*

Secretary Walsh, since January, DOL has proposed delays or withdrawals of a number of Trump-era rules clarifying aspects of the 83-year-old *Fair Labor Standards Act*, including policies

related to joint-employer status, a worker's classification as independent contractor or employee, and tipping practices. Additionally, on January 22, DOL withdrew the Pro Good Guidance Rule, which required DOL to streamline regulatory practices, maintain an online searchable database of guidance documents, and ensure public notice-and-comment periods for significant guidance with substantial economic impacts. Mr. Secretary, how are these actions helpful in ensuring that businessowners and workers benefit from the needed clarity provided by the common-sense proposals of the previous administration and does the repeal of the PRO Good Guidance Rule signal an intention to replace them with recycled versions of the failed one-size-fits all regulatory mandates imposed by the Obama administration? Does your Department plan to utilize notice-and-comment rulemaking for all proposed policy changes, which provides important transparency and protections for affected stakeholders including workers and small businesses?

*The Department is committed to following the notice and comment requirements of the Administrative Procedure Act, as well as the procedures outlined by Executive Order (EO) 12866, EO 13563, and the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices. We believe these longstanding guidelines provide the necessary framework to ensure transparency and the opportunity for public participation in the development of regulatory actions and significant guidance documents. In addition, all of the Department's regulatory agencies conduct robust stakeholder outreach to ensure that all stakeholders have a chance to be heard.*

*Question 9*

Secretary Walsh, during the Obama administration, OSHA often assessed excessive penalties on employers that did not match the facts of the incident or severity of the violation. Many of these penalties did not withstand scrutiny on appeal and were ultimately vacated. Does OSHA plan to return to issuing these legally indefensible penalties during the Biden administration?

*OSHA penalties are set by Section 17 of the OSH Act, as amended, and are subject to inflation adjustment under the Federal Civil Penalties Inflation Act Improvements Act of 2015.*

*OSHA is committed to carrying out Congress's mandate and proposing appropriate penalties in situations where employers expose their workers to safety or health hazards. OSHA penalties are assessed based on guidance outlined in OSHA's Field Operations Manual, which allows for reductions based on employer size, history of previous violations, and demonstrated good faith. The highest penalties are reserved for employers who willfully or repeatedly violate the requirements of the OSH Act. OSHA will continue to levy the maximum penalty where evidence of willful or repeated conduct is present.*

*Our goal is to prevent accidents before they happen, but unfortunately some employers do not appropriately protect the health and safety of their employees, as required by the OSH Act and its standards and regulations, and, in those cases, maximum penalties are absolutely appropriate.*

*Question 10*



Secretary Walsh, President Biden's January 21 Executive Order directs the Secretary of Labor to consider whether an emergency temporary standard on COVID-19 applicable to coal and metal or non-metal mines is necessary. To date, has the Department made a determination about whether an ETS on COVID-19 in mines is necessary? If not, when do you expect to make this determination?

*MSHA continues to perform its mandated enforcement activities, including inspections at every underground and surface mine, 4 times and 2 times per year, respectively. MSHA issued guidance on COVID-19 on March 10, 2021, to miners and operators in coal, metal, and nonmetal mines to help them identify risks of being exposed to COVID-19 at work and to help them determine appropriate control measures to reduce such risk. The guidance recommends operators implement COVID-19 prevention programs at each mine through a stand-alone program or as additions to existing training and education programs. MSHA's guidance details key measures for limiting the coronavirus's spread, including ensuring infected or potentially infected miners are not in the workplace, implementing and following physical distancing protocols and using surgical masks or cloth face coverings. It also provides guidance on use of personal protective equipment, improving ventilation, good hygiene and routine cleaning. MSHA held a stakeholder meeting shortly after issuing the guidance to ensure it was broadly communicated to the mining community. At this time, MSHA does not intend to issue an emergency temporary standard on COVID-19 for mines.*

*Question 11*

Secretary Walsh, one of the biggest obstacles to expansion of the registered apprenticeship model is the allowance for unions to exempt themselves from requirements on the ratios of journeymen to apprentices. This creates an uneven playing field that often prohibits non-union programs from being approved. While I understand that union-run apprenticeships offer a compelling option to some, this type of barrier is antithetical to your Department's stated goal of expanding the reach of the registered apprenticeship model. Will you revise this regulation to ensure that apprenticeships can better meet the needs of all employers and industries, rather than just building trade unions?

*The President and I both support every worker's right to the free and fair choice to join a union, and recognize the essential role unions play in supporting worker training and ensuring worker voice on the job. While the Department remains committed to the expansion of quality registered apprenticeships – including in those occupations and sectors outside of the skilled trades where apprenticeship programs are not currently widespread – our paramount obligation under the National Apprenticeship Act of 1937 is to “formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices” who participate in such training programs. Accordingly, the regulatory provision at 29 CFR section 29.5(b)(7) requires that registered apprenticeship program standards include “[a] numeric ratio of apprentices to journeymen consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language must be specific and clearly described as to its application to the job site, workforce, department or plant.”*

*On January 12, 2021, the Department's Office of Apprenticeship (OA) issued Circular 2021-02 (the Circular), titled "Guidelines for Reviewing Apprentice to Journeyworker Ratio Requests," a sub-regulatory guidance document that elaborates on the foregoing regulatory provision (this Circular may be viewed at: <https://www.dol.gov/agencies/eta/apprenticeship/bulletins>). It is important to note that the evaluative process outlined in the Circular with respect to ratios applies to any apprenticeship program registered by OA, regardless of whether it is governed by the terms of a Collective Bargaining Agreement (CBA). The Circular also stipulates that, in reviewing a proposal from any apprenticeship program sponsor for a ratio of more than one apprentice to one journey worker (also known as an "expanded" ratio), the Department will approve such requests only when a sponsor demonstrates that such a ratio poses little or no risk to the safety of apprentices in the workplace.*

*In response to your inquiry as to whether the Department intends to revise its regulation at 29 CFR part 29 subpart A "to ensure that apprenticeships can better meet the needs of all employers and industries, rather than just building trade unions," I can state that, in light of the recent passage of the National Apprenticeship Act of 2021 (H.R. 447) by the House of Representatives, the Department is looking forward to implementing a revised National Apprenticeship Act should it be enacted by the 117<sup>th</sup> Congress. With regards to ensuring that Registered Apprenticeships can meet the needs of all employers and industries, we look forward to engaging with industry stakeholders on the Advisory Committee on Apprenticeship (ACA) to address industry concerns and recommendations. The recommendations of the ACA could lead the Department to consider revising and modernizing its registered apprenticeship regulations at 29 CFR part 29 subpart A through the rulemaking process.*

#### *Question 12*

Secretary Walsh, we often hear that the registered apprenticeship model is too burdensome and complicated for employers to navigate, particularly small- or medium-sized businesses who may not have the same capacity for paperwork and bureaucracy. Whether people are willing to admit it or not, more money is not the solution to this problem. What are some specific reforms that can be made to the program to address these issues?

*As you are aware, I am a firm believer in the Registered Apprenticeship model as a workforce development solution that benefits both workers and employers. The Department remains firmly committed to ensuring the quality of Registered Apprenticeship programs, and has recently taken a number of significant steps to expand the utilization of workforce intermediaries in registering programs, to streamline its registration processes, to facilitate compliance with its regulatory requirements, and to reduce administrative burdens for potential Registered Apprenticeship sponsors.*

*We believe that small and medium-sized businesses can benefit from the expanded utilization of workforce intermediaries as a strategy for facilitating and expediting the registration of apprenticeship programs. In keeping with this intermediary-driven apprenticeship model, the Department's investments support a variety of workforce stakeholders such as community*



colleges, workforce development boards, community-based organizations, and other industry groups.

*In addition, the Department has developed a set of streamlined, boilerplate apprenticeship standards for use by potential Registered Apprenticeship sponsors; these template standards have sharply reduced the volume of paperwork involved in the registration of programs, while still satisfying the Department's regulatory requirements contained in 29 CFR part 29, subpart A and 29 CFR part 30. These resources are available online through the Department's Standards Builder platform at: <https://www.apprenticeship.gov/employers/registered-apprenticeship-program/register/standards-builder>. The Department has also taken significant steps to expand its National Program Standards of Apprenticeship, which allows for a one-stop multi-state registration experience with the Department. Additionally, the Department has developed a suite of electronic equal employment opportunity (EEO) technical assistance tools and resources to assist sponsors with meeting their EEO obligations under 29 CFR part 30. Taken together, these measures are designed to alleviate the administrative burdens associated with the registration and maintenance of programs, particularly for small- and medium-sized businesses that may wish to sponsor apprenticeship programs.*

*In addition to these measures, I am committed to ensuring a robust Advisory Committee on Apprenticeship (ACA) that includes broad input and participation from relevant industry stakeholders, and I look forward to engaging with members of the ACA on ways to modernize, diversify, and expand Registered Apprenticeships throughout the nation.*

*While I agree that increased levels of funding alone will not address every issue, I believe that further investments in Registered Apprenticeship programs will lead to more quality apprenticeship programs, a strong and diverse pipeline of workers for businesses, and the ability to continue necessary modernizations that are responsive to industry needs. Additionally, the Department believes that a modernized, forward looking, and innovative reauthorized National Apprenticeship Act is essential to the preservation of high quality apprenticeship programs throughout the nation and to achieving the Administration's ambitious goals for apprenticeship.*

#### *Question 13*

Secretary Walsh, your budget included "Community College Training Partnerships" under the American Jobs Plan. Is this effort modeled off the TAACCCT (Trade Adjustment Assistance Community College and Career Training) program that expired in 2018? As you know, this program showed mixed results. Can you please share how this proposal is different than the TAACCCT program and what changes were specifically made to address the failures in the previous program?

*The "Community College Training Partnerships" proposal will build on TAACCCT successes and challenges based on implementation experiences and evidence from evaluation. Overall, the TAACCCT program led to vital capacity building and systems changes that better aligned community colleges with the training needs of employers to support more rapid reskilling of workers for a successful return to work.*

*This proposal will support a sector-based career pathways model that combines accelerated learning strategies, persistence and completion strategies, and connections to employment. The grants will focus on credentials that can be completed within two years, including Registered Apprenticeships, and improving adult learners' completion of these credentials. Specific evidence-based strategies include academic and non-academic student supports; evidence-based education and training strategies, including work-based learning; accelerated learning models; innovative training delivery; and prior learning assessments. The grant program will bring together robust partnerships with community, employer, labor and workforce system organizations. A portion of these funds will also be dedicated to building partnerships that drive equity for underserved communities in the provision of training and career services.*

*Question 14*

Secretary Walsh, your proposed budget discusses the need for WIOA to better serve at-risk youth. One of the bipartisan provisions in the last reauthorization of WIOA was a requirement for 75 percent of youth activities funding to be spent on serving out-of-school youth, primarily because this is the sole avenue for specifically supporting the education and employment of this vulnerable population. However, many states have received waivers for the implementation of this requirement. Do you plan to renew these waivers? How can we ensure that states are able to better implement this provision and retain the focus on serving out-of-school youth through WIOA?

*Between 2017-2021, 29 states were approved for waivers of the requirement that 75 percent of WIOA Youth expenditures be spent on out-of-school youth (OSY), lowering that requirement to 50 percent. While many states do have the OSY expenditure waivers, states continue to spend the vast majority of resources on OSY. Over 85 percent of local area youth funds are spent on OSY nationally and all but four states (who have the waiver) spend greater than 75 percent of their youth funds on OSY. States will determine whether or not to request these waivers again for PY 2021. I agree with you that WIOA reauthorization is an opportunity to focus resources on youth most in need of services, in school or out of school, so that all youth have a chance for career exploration and workforce development.*

*Question 15*

Secretary Walsh, one of the very few bright spots in the Job Corps program in recent years was the recent efforts by the Trump administration to pursue a number of pilot programs under their demonstration authority in WIOA. These included the State Operated Job Corps Demonstration Project and the Job Corps Scholars Program among others. Do you intend to continue any or all of these efforts? If so, can you provide an update on their implementation and performance to date?

*The Department has implemented a number of pilot programs under the WIOA demonstration authority and will continue to explore additional opportunities to pilot innovative approaches to serving Job Corps-eligible youth. All demonstration projects were significantly impacted by the COVID-19 pandemic, resulting in slow gains in meeting performance targets. To date, the*

*following programs have been implemented and Job Corps intends to continue all of them through completion of their respective periods of performance:*

- *In July 2020, the Department issued a Request for Proposal for the operation of the Potomac Job Corps Center in southwest Washington DC as a non-profit set-aside, using Job Corps' WIOA demonstration authority to restrict competition only to non-profit entities. The non-profit set-aside was aimed to achieve greater competition, leading to innovation and price benefits, and to take advantage of non-profit entities who may have existing linkages to the workforce system that would benefit participants with job opportunities. In January 2021, the Department awarded the contract to Eckerd Youth Alternatives Inc. to begin operating the Potomac Job Corps Center in October 2021. The base period of performance is for two years from October 2021 through October 2023 with three option years that the Department may choose to exercise based on the contractor's performance, among other factors. The Potomac Job Corps Center's planned on-board strength (OBS) is 378 students, which the awardee must attain and/or maintain, as well as ensure the arrival of a minimum of 870 new students annually. The awardee will be expected to meet several other performance targets involving credential attainment, skill gains, and placement rates.*
- *In June 2020, the Department awarded Job Corps Scholars grants to twenty-six accredited two-year public community colleges and accredited public two- and four-year Historically Black Colleges and Universities. Grantees are expected to serve at least 2,080 Job Corps-eligible youth during the 39-month period of performance. The program provides enrollees with up to 12 months of career technical training, personal and career counseling, and other support services. As of June 15, 2021, the Job Corps Scholars program has received 511 applicants and enrolled 385 students.*
- *In June 2019, the Department entered into a 42-month (June 2019 through December 2022) cooperative agreement with the Louisiana National Guard to operate the Job ChalleNGe Program as a demonstration project. This pilot project is a five-month residential program that aims to expand and enhance the education of Job Corps-eligible participants who complete the first 22-week residential phase of the Louisiana National Guard Youth ChalleNGe program and who choose to participate in Job ChalleNGe. The project will serve 600 students over a period of performance of three years. To date, the project has recruited 69 students and graduated 30 of those students from the program.*
- *In April 2019, the Department entered into a 42-month (April 2019 to September 2022) cooperative agreement with the Idaho Department of Labor to operate the Idaho JOBCorps Program as a demonstration project. The project is expected to serve 750 students, consisting of approximately 600 non-residential and 150 residential students. The project will test strategies used by the State of Idaho to improve the workforce outcomes of Job Corps-eligible youth. These strategies include using community colleges to increase training opportunities to meet employer's skills needs. The project also incorporates highly supported work-based learning to connect*

participants to quality employment opportunities. To date, the project has enrolled 132 students and graduated 30 students from the program.

- The Department's Chief Evaluation Office is currently conducting an evaluation of these demonstration projects. Once the evaluation is completed, the Department will analyze the results and make an evidence-based determination on whether to continue them.

#### Question 16

Secretary Walsh, you are proposing \$18 billion in funding for a new Comprehensive Supports for Dislocated Workers (CSDW) program for workers who are enrolled in federally-funded upskilling programs in order to help with completion and employment. What specifically do these "comprehensive supports" include, and how would they be coordinated with existing Dislocated Worker activities under WIOA?

*Comprehensive services for dislocated workers include income support, supportive services (e.g. child care, transportation, etc.), job search allowances, and relocation benefits. These services would complement the Dislocated Worker program, allowing Dislocated Worker grants to fund training and education for new careers, and comprehensive services to provide the supports necessary to complete that training and education for the most in need jobseekers.*

#### Question 17

Secretary Walsh, the American Jobs Plan calls for \$22 billion for a new program called, "Sectoral Employment through Career Training for Occupational Readiness", or SECTOR. What exactly is this program intended to do? How do you plan to determine which industries this program will serve? How have you engaged employers and the business community in the development of the program? How frequently do you plan to update the sectors served to ensure that it is meeting the demands of the current labor market?

*Evidence from the field clearly shows that sector-based training is one of the most effective methods of providing training to workers.<sup>1</sup> The proposed SECTOR program will support the formation, expansion, and improvement of sector partnerships for the purpose of developing and scaling of sector-based training programs, building upon evidence that job training in targeted sectors developed in close collaboration with employers is effective. This funding would ensure that workers who have lost their jobs get services to gain new skills for in-demand jobs and that our nation builds a workforce pipeline in growing, high-demand sectors. Initial grant competitions would target sectors with demonstrated national demand and where employers have noted worker shortages, such as information technology, advanced manufacturing, clean energy, public health and child care. The Department would award these funds through a grant competition in which businesses or industry associations are required as partners, so that grant proposals are responsive to the needs of employers in a given region or locality through regular*

<sup>1</sup> See Maguire, S., Freely, J., Clymer, C., Conway, M. & Schwartz, D. (2010). *Tuning in to local labor markets: Findings from the Sectoral Employment impact study*. Philadelphia: Public/Private Ventures. See also Woolsey, L. & Groves, G. (2013) *State Sector Strategies Coming of Age: Implications for State Workforce Policy Makers*. National Governors Association

*engagement with employers. Should it be implemented, the Department envisions assessing target sectors based on national, state, regional, and local labor market information that indicates employer demand such as relative number and duration of job openings, as well as opportunities for employee progression and wage growth.*

*Question 18*

Secretary Walsh, one of the problems that we hear frequently about the workforce system is that there is often a lack of new and innovative providers eligible for funding for upskilling services. For example, requirements at the state level that providers have a brick and mortar location have presented barriers to online and virtual education providers. What other barriers to eligibility for providers in the workforce system are you aware of? What are you doing to ensure that employers and individuals have better options than they do under the status quo?

*Many state and local workforce boards, and education and training providers, responded to the challenges of the pandemic by making available more virtual services and online training and education offerings. There are no restrictions in the WIOA statute, regulations, or guidance that prohibit states from approving virtual career service delivery or online training programs for inclusion on their state list of eligible training providers (ETP), and many states and local areas have implemented such online and innovative service and training strategies, especially in the wake of the pandemic. Furthermore, WIOA allows for a range of training options such as on-the-job training, incumbent worker training, customized training, and others that may also be delivered virtually. States also frequently use the Governor's reserve to test and bolster new and innovative training strategies. The Department continues to emphasize quality as the most important factor for the training and education providers that states approve as ETPs, and it has established mechanisms to share performance outcomes of training provider programs, such as the online resource [www.TrainingProviderResults.gov](http://www.TrainingProviderResults.gov), which reports on ETP outcomes at a program of study level. The Department will continue to provide technical assistance in data collection to ensure that employment outcomes only, and not challenges in reporting complex data, determine whether a given training program is available to WIOA participants.*

*Question 19*

Secretary Walsh, President Biden issued an executive order in January directing your Department to allow the provision of unemployment benefits to continue for those who have refused a job. Is this policy still in place? If so, how long do you intend to maintain it? Have you engaged with employers about the impact of this policy on their ability to fill open positions?

*On February 25, 2021, the Department issued Unemployment Insurance Program Letter No. 16-20, Change 5, expanding eligibility for the Pandemic Unemployment Assistance program for those who are able and available to work except for one of the designated COVID-19 related reasons. Those reasons were expanded to include individuals who are denied regular unemployment benefits because they refuse to return to work that is made unsuitable because it is unsafe or accept an offer of work that is unsafe. This expansion was made under the authority provided by Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act, and this eligibility reason will remain in effect until the program ends.*

*I have heard from employers who have experienced difficulty filling certain positions, but those challenges have a variety of causes. Our unemployment system is designed with the goal of ensuring attachment to the workforce. In addition to providing benefits to Americans during spells of unemployment, a core purpose of the UI program is getting workers back into suitable work. And, as we change the course of the pandemic and America reopens, the UI program, and all who administer it, have a critical role to play in easing that transition and helping Americans find safe, good-paying work.*

*The Department of Labor offers numerous resources to support your state's efforts in facilitating a return to employment for individuals affected by the economic impacts of the COVID-19 pandemic. These resources include (1) providing for meaningful work search requirements; (2) leveraging the Reemployment Services and Eligibility Assessments (RESEA) program to provide individualized reemployment services under the regular UI program; (3) taking full advantage of the federal reimbursements available to increase employer participation in the Short-Time Compensation (STC) program; and (4) supporting partial unemployment benefits for individuals for whom STC is not available.*

*On May 14, 2021, I sent letters to all administrators of State Workforce Agencies to encourage states to use the resources of the UI program to promote reemployment and reopening. I also reminded states of the requirement that workers may not reject a bona fide offer of a suitable job due to a general, non-specific concern about COVID-19 and continue to receive unemployment benefits. Individuals must be unemployed or partially unemployed through no fault of their own. As such, an individual who refuses an offer of suitable work solely to receive unemployment benefits is not eligible for continued receipt of such benefits. This was reiterated in guidance published by the Department on July 1, 2021 (Unemployment Insurance Program Letter No. 13-20, Change 3).*

#### *Question 20*

Secretary Walsh, ensuring patients have access to mental health treatment is a priority for me and this committee. Many health plans and employers seek to abide by mental health parity laws but find the Department's rules on non-quantitative treatment limitations to be subjective and confusing. Congress included a provision in the *Consolidated Appropriations Act, 2021* directing employer-sponsored health plans to submit an annual public compliance report. Have plans been compliant with the Department's information requests thus far? What have you learned from these reports?

*The Consolidated Appropriations Act, 2021 (CAA) has given the Department important new tools to improve compliance with MHPAEA's requirements. Health plans and issuers must now produce comparative analyses of non-quantitative treatment limitations (NQTs) upon request and respond appropriately to identified deficiencies in analysis or compliance. The Department is fully committed to using these new tools fairly and effectively. In early 2021, the Department assembled a NQTL Task Force comprised of in-house subject matter experts from across the Employee Benefits Security Administration's regional and national investigative offices, regulatory divisions, and the Office of the Solicitor. The NQTL Task Force has developed*



*investigator training, review mechanisms, tracking systems, and tools to implement the provisions of the CAA. Through the NQTL Task Force, the Department has coordinated the review and ongoing assessment of hundreds of red flags of possible NQTL violations spread across over 300 open health investigations. The Department has also retained NQTL experts with extensive experience working with state regulators focusing on MHPAEA-NQTL examinations to provide technical consultation as needed.*

*The Department is also coordinating its work with the Department of Health and Human Services (HHS) and Internal Revenue Service (IRS) (together the "tri-agencies"), which share MHPAEA enforcement jurisdiction with DOL. On April 3, 2021, the tri-agencies released a set of Frequently Asked Questions (FAQs) addressing the CAA and the requirements it imposes upon plans and issuers as well as federal regulators. The Department's NQTL Task Force is actively coordinating with HHS with respect to any overlap between DOL's open NQTL investigations and the 20 NQTL analyses that HHS has requested of issuers.*

*From April 9, 2021 to June 24, 2021, the Department has issued 74 letters to plans and issuers, requesting documentation of NQTL parity analyses for approximately 160 separate NQTLs. In response to these requests, 22 plans and issuers have so far produced comparative analyses covering approximately 41 NQTLs. Many plans requested extensions of time to prepare their analyses or to allow recently-hired consultants to prepare or finalize the analyses that the CAA required to be completed by February 10, 2021. Several plans appeared not to have prepared any analyses before receiving the Department's request letter. Unfortunately, many of the plans that have responded so far appear to have provided incomplete or flawed analysis. Common deficiencies include: failure to describe the NQTL or applicable plan terms, failure to identify factors considered in the design or application of the NQTL, failure to define factors and evidentiary standards, lack of information demonstrating compliance in how NQTL provisions are applied in plan operations, conclusory statements noting compliance without supporting analysis, and the production of voluminous documents without a clear explanation of how they are relevant to the parity analysis. The Department detailed each of these reasons for insufficiency in the April 3, 2021 set of FAQs. To date, the Department has issued seven letters noting insufficiency findings and/or requesting additional information. The Department plans to issue more insufficiency letters and new request letters on a rolling basis going forward. The Department, along with HHS and Treasury, will submit the first report to Congress on the review of comparative analysis in December 2021.*

#### *Question 21*

Secretary Walsh, this Committee has played a leading role in allowing associations and small businesses to band together to purchase affordable health insurance coverage through association health plans (AHPs). In 2018, DOL issued a final rule to expand access to AHPs. Before the D.C. Circuit Court of Appeals invalidated the rule, 35 new AHPs were formed. Isn't it true that these new AHPs decreased the number of uninsured individuals? What happened to the premiums of the employees who participated in the new AHPs?

*The Department does not have data on the impact that new AHPs had on the number of uninsured individuals or on premiums prior to the D.C. District Court's decision that vacated the rule.*

*I understand that there is continued interest among stakeholders in the ability to form AHPs. We note that many employer groups and associations remain eligible to offer AHPs to their members under a pathway established through DOL guidance that pre-dates the 2018 AHP final rule. The 2018 AHP final rule merely established an alternate, more permissive, set of criteria for eligibility to offer an AHP that would have subjected those arrangements to less oversight and fewer consumer protections. Although that rule has been vacated, the earlier DOL pre-rule guidance remains in effect.*

#### *Question 22*

Secretary Walsh, in 2018, the Congressional Budget Office estimated that the Trump administration's association health plan (AHP) rule would provide coverage for up to 400,000 employees by 2023 who were previously uninsured. Does the Department agree with CBO's assessment? If the Department rescinds this regulation, what coverage will be offered to these uninsured individuals? On average, does it cost the taxpayer more for an individual to be enrolled in an AHP or in an *Affordable Care Act* marketplace plan?

*Because the final rule was vacated before it was fully implemented, the Department does not have real-world data to compare to the CBO estimates regarding the rule's impact on uninsured individuals. However, the Department notes that there are several options currently available for uninsured individuals to receive health coverage. The Administration has made available a Special Enrollment Period through the Federal Marketplace from February 15 to August 15 for people who needed health care coverage during the pandemic. Additionally, because of the American Rescue Plan Act (ARP), 14.9 million Americans who currently lack health insurance will be able to save money on their premiums and find the coverage they need at a price they can afford. ARP makes available increased tax credits to consumers, helping to reduce premiums and giving consumers access to affordable health care coverage. Individuals who lost their job or had their hours reduced may also qualify for COBRA premium assistance under ARP, allowing them to receive COBRA continuation coverage at no cost to them through September 30, 2021. In response to a draft version of ARP, the CBO estimated that it would extend coverage to about 2.5 million uninsured consumers from 2021 through 2023 because of increased Affordable Care Act subsidies and COBRA continuation coverage premium assistance.*

#### *Question 23*

Secretary Walsh, do you support a public health care option—yes or no? As you may know, Washington state recently launched a public option called Cascade Care. The program offered plans at higher cost compared to private plans, resulting in disappointingly low enrollment, and it faced significant problems recruiting hospitals and doctors for its network. Unfortunately, yet predictably, Cascade Care has been a boondoggle. Many in the Biden administration—including your colleague, HHS Secretary Becerra—have been outspoken in their support of proposals to



move all Americans to a single-payer health care system like Medicare for All or a public option, which is Medicare for All in sheep's clothing.

- a. Why wouldn't a national public option result in the same problems faced by Cascade Care?
- b. Would single-payer, and the problems that come with it, be worth ending employer-sponsored health insurance as we know it—which is what Medicare for All or a public option would do?

*The Department of Labor enforces Title I of the Employee Retirement Income Security Act of 1974 (ERISA) with respect to 2.5 million private employment-based group health plans, which cover 136 million participants and beneficiaries. Through its jurisdiction over employment-based group health plans, the Department supports expanding access to coverage and reducing costs for American workers. I look forward to working with Congress, the Department of Health and Human Services, and the rest of the Administration to achieve the Administration's goal of lower costs and expanded and improved coverage for all Americans, and ensuring that families across the nation are able to secure quality, affordable health care in any way possible.*

#### Question 24

Secretary Walsh, we can all agree that action must be taken to help lower prescription drug costs. However, government price-setting is not the answer. I am concerned that legislation offered by Democrats such as H.R. 3, which creates the option for employers to accept the government-set rate for a prescription drug, would create tremendous legal risks for employers. This increased risk would essentially remove the employer's choice and ability to negotiate drug prices under its own plan. Secretary Walsh, what would be the consequences for an employer who chose not to accept the government-set rate for a drug under H.R. 3? How easily could they run afoul of their fiduciary requirements?

*The Administration recognizes that the impact of high prescription drug prices on public health is an important issue and fully supports Congressional efforts that aim to lower prices.*

*The Department of Labor enforces Title I of ERISA with respect to 2.5 million private employment-based group health plans, which cover 136 million participants and beneficiaries.*

*Through its jurisdiction over employment-based group health plans, the Department supports providing opportunities for employers to negotiate drug prices and choose the best pricing model for their employee populations. The Department believes that sponsors of group health plans can achieve this goal while fulfilling their responsibilities as fiduciaries.*

*I remain committed to the Administration's goal of lowering prescription drug prices as well as increasing transparency in drug pricing, and look forward to working with Congress to achieve this goal.*

#### Question 25

Secretary Walsh, President Biden's budget proposes spending \$69 trillion over ten years with \$17 trillion in new debt by 2031. Americans are already seeing signs of inflation as the economy rebounds from COVID-19, and this budget does nothing to curb it. How would inflation affect the affordability of health coverage and the value of employer-sponsored benefits like health reimbursement arrangements?

*The Department remains committed to ensuring the affordability of health coverage, and ensuring the value of employer-sponsored health benefits.*

*In furtherance of that aim, the Departments of Labor, Health and Human Services, and Treasury are implementing protections for consumers to improve the affordability of health care. Surprise bills (sometimes called balance billing) can be financially devastating. Surprise billing typically occurs when emergency services are provided and the patient, unwittingly, receives health care services, such as radiology services, from an out-of-network provider even though the hospital is in network. The No Surprises Act (enacted as part of the Consolidated Appropriations Act, 2021 (CAA)) generally prohibits balance billing for emergency services and non-emergency services provided by nonparticipating providers at certain participating health care facilities. The Departments are in the process of developing rulemaking to implement these surprise billing protections.*

*The Departments are also working diligently to implement the provisions of the CAA aimed at promoting greater price transparency in health care, increasing competition, and decreasing overall costs. Most recently, the Departments published a Request for Information regarding reporting on pharmacy benefits and prescription drug costs.*

#### *Question 26*

Secretary Walsh, strong economic growth contributes to more workers gaining health insurance from their employers. Getting people back to work would help decrease our uninsured. Do you agree with me that it is time to end the juiced federal unemployment subsidy and incentivize workers to return to jobs that offer stable health coverage options?

*The Biden Administration Economic Plan is working. Wages are increasing and in the last three months, we have added 1.7 million jobs. While the economy is growing rapidly, we are still down millions of jobs as a result of the pandemic, and still have people who are not fully vaccinated and are concerned for their health. The extra \$300 in unemployment is not hindering people from returning to work. I believe the reasons for people not returning to work have more to do with issues around lack of child care, hybrid school operations requiring parents to be at home, people taking care of their loved ones, and concerns around the spread of the Delta variant. The President's Build Back Better agenda will help ensure that we gain the remaining jobs we lost during the pandemic and grow a stronger economy for all.*

#### *Question 27*

Secretary Walsh, I am concerned about the Department's audits regarding unresponsive or

missing retirement plan participants. We all share the desire to reunite participants with their retirement savings, however, many of these audits go on for multiple years and impose unnecessary, costly burdens on retirement plans and plan sponsors. In addition, there are unresolved conflicts between the Department's views on missing participants and IRS regulations, and I have heard about the difficulties in following DOL's guidance. Retirement plan sponsors are unable to engage in all of DOL's "best practices," and certainly not for an indeterminate period of time. How do you plan to improve the audit practices of the Department, and how will you ensure that plan sponsors know the appropriate measures to take when connecting stranded retirement accounts with missing or unresponsive participants?

*When plan participants and beneficiaries are "missing" or unresponsive to plan communications, and do not timely receive their benefits, their benefits and retirement security are at risk. Without their retirement benefits, participants and beneficiaries may have to live on substantially less income than they need to meet their physical and health needs. Plans may be unable to communicate with terminated participants who are owed benefits, or their designated beneficiaries, because of inadequate recordkeeping practices, ineffective processes for communicating with terminated participants and beneficiaries, and faulty procedures for searching for participants and beneficiaries for whom they have incorrect or incomplete contact information. Such fiduciary failures can result in financial injury to the plan's participants, spouses, and other designated beneficiaries who fail to make benefit claims or otherwise start receiving their retirement benefits.*

*Depending on the state of the plan's recordkeeping and the difficulty of locating participants who may have been effectively missing from plan records for years, it can sometimes take considerable time and effort to ensure that they are located and paid the benefits to which they are entitled. The billions of dollars restored to plan participants under the program far outweighs the relatively small costs of the efforts undertaken to pay them their entitlement. The Department shares your desire to reunite participants with their pensions and retirement savings. In furtherance of that goal, the Department recently issued three pieces of guidance:*

- 1. Missing Participants - Best Practices for Pension Plans memorandum** – an educational document intended to help plan fiduciaries determine if they have a missing-participant problem;
- 2. Compliance Assistance Release 2021-01** – a description of the investigative processes and case-closing practices that the Department of Labor's Employee Benefits Security Administration (EBSA) Regional Offices use when conducting investigations of defined benefit plans; and
- 3. Field Assistance Bulletin 2021-01** – a temporary enforcement policy that allows fiduciaries of terminated 401(k) and other defined contribution plans and the qualified termination administrators of abandoned individual account plans to transfer account balances of missing and non-responsive participants to the Pension Benefit Guaranty Corporation (PBGC) pursuant to PBGC's missing participant program for defined contribution plans.

*Since its inception, the goal of our focus on missing participants has been to reunite lost terminated vested participants with their hard-earned retirement benefits. To that end, the Department has taken a compliance assistance approach to pursuing missing participant issues*

*in investigations, seeking to work closely and cooperatively with plans to find and contact missing participants, and improve record retention and participant information management.*

*The Department works with plans to ensure that identified problems in missing participant plan administration are corrected such that the risk of errors in the future is effectively and reasonably mitigated. The recent guidance on the investigative process and best practices should contribute towards a consistent, efficient, and reasonable resolution of these investigations.*

*Question 28*

Secretary Walsh, the Department has responsibility for enforcing the *Employee Retirement Income Security Act* (ERISA), which covers retirement, health, and other benefit plans for millions of working Americans. Employers are required to report and disclose information to the Department, as well as other agencies, through what is known as the Form 5500 disclosure. Does the Department plan to make any changes to these requirements, and is the Department coordinating with other agencies to address the costs and administrative burdens associated with these occasionally duplicative procedures?

*The Department is currently coordinating with the Department of Treasury/Internal Revenue Service and the Pension Benefit Guaranty Corporation to publish proposed forms revisions to implement statutory amendments to the Form 5500 annual reporting requirements under ERISA and the Code enacted as part of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), generally effective for the 2022 forms. These changes involve reporting for new pooled employer plans under the SECURE Act and a consolidated reporting option per the SECURE Act for certain groups of defined contribution pension plans. The proposal is expected to include a limited number of other related and ancillary changes. The Department also added a separate and longer-term Form 5500 project to its most recent semi-annual agenda. The Department is working with the Internal Revenue Service and the Pension Benefit Guaranty Corporation on a strategic project to improve the Form 5500 Annual Return/Report of Employee Benefit Plan and to enhance the agencies' ability to collect employee benefit plan data that best meets the needs of changing compliance projects, programs, and activities.*

*Question 29*

Secretary Walsh, in November 2020, DOL published a final rule ensuring that retirement plan fiduciaries prioritize the financial interests of retirees, workers, and their families when investing retirement plan assets. The common-sense rule went into effect on January 12, 2021. However, President Biden directed your Department, under the guise of an executive order on climate change, to review and rescind this rule. On March 10, DOL announced that it would not enforce the rule. By rescinding this rule, is the Biden administration and your Department more concerned with appeasing special interest groups than protecting workers and retirees? Do you believe that retirement plans should sacrifice investment returns or increase risk in order to pursue non-financial interests?

*The Department has not rescinded the rule referenced by this question (entitled "Financial*

*Factors in Selecting Plan Investments*,” 85 FR 72846 (November 13, 2020), and “Fiduciary Duties Regarding Proxy Voting and Shareholder Rights,” 85 FR 81658 (December 16, 2020)). Nor does the Department believe that it is permissible under the Employee Retirement Income Security Act for retirement plans to sacrifice investment returns or increase risks in order to pursue non-financial interests. The Department’s longstanding position on this matter is that a fiduciary may not subordinate the interests of plan participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives. In other words, fiduciaries who are willing to accept expected reduced returns or greater risks to secure collateral benefits are in violation of ERISA.

After negative feedback from a wide variety of stakeholders, including asset managers, labor organizations and other plan sponsors, consumer groups, service providers, and investment advisers, the Department decided not to enforce the rule while the Department carried out the review required by Executive Order 13990 of January 20, 2021. Many of these stakeholders questioned whether the subject rule properly reflects the scope of fiduciaries’ duties under ERISA to act prudently and solely in the interest of plan participants and beneficiaries. Stakeholders also questioned whether the rule was rushed unnecessarily and failed to adequately consider and address the substantial evidence submitted by public commenters on the use of environmental, social, and governance (ESG) considerations in improving investment value and long-term investment returns for retirement investors. The Department has also heard from stakeholders that the rule, and investor confusion about the rule, has already had a chilling effect on appropriate integration of ESG factors in investment decisions, including in circumstances that the rule can be read to explicitly allow. Accordingly, the Department announced its intention to revisit the rule, and also announced that, until it publishes further guidance, the Department will not enforce the rule or otherwise pursue enforcement actions against any plan fiduciary based on a failure to comply with the rule. The enforcement statement does not preclude the Department from enforcing any statutory requirement under ERISA, including the statutory duties of prudence and loyalty in section 404 of ERISA. More recently, the Department formally announced in its semi-annual agenda that it has opened a rulemaking project that involves a re-examination of the rule pursuant to Executive Order 13990 of January 20, 2021, titled *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, and Executive Order 14030 of May 20, 2021, titled *Climate-Related Financial Risks*.

#### *Question 30*

Secretary Walsh, participants and beneficiaries in private-sector retirement plans governed by the *Employee Retirement Income Security Act* (ERISA) relinquish control over plan investment decisions, trusting that the plans will be managed by experts who are focused solely the worker’s retirement security. This is especially true of participants in defined-benefit retirement plans, who rely on plan trustees to manage assets in a way that ensures promised benefits are available upon retirement. Unlike government-run retirement plans, ERISA plans are subject to the strongest protections known in law, those of an ERISA fiduciary, who must act with an “eye single” to funding the retirement benefits of plan participants and beneficiaries. This means investment decisions and the exercise of shareholder rights must be based solely on whether they enhance retirement savings, regardless of the fiduciary’s personal preferences. In March, the

Department issued a statement of nonenforcement of two rules finalized in 2020 that address how fiduciaries can fulfill their duties of loyalty and prudence to plan participants. When will the Department issue additional guidance and begin enforcing these rules?

*See answer to Question 29.*

*Question 31*

Secretary Walsh, in December 2020, DOL finalized a new class exemption for investment advice fiduciaries, which delivered more choices for American workers and retirees and ensured that investment advice was being provided in participants' best interest. Earlier last year, the Department officially reinstated the longstanding "five-part test" for determining who is an investment advice fiduciary under ERISA. News reports indicate, and Department officials have publicly stated, that your Department intends to revisit the regulations and definitions concerning who qualifies as investment advice fiduciary. Does your Department intend to restart the disastrous and discredited fiduciary rulemaking of the Obama administration and the process for determining an ERISA fiduciary?

*I believe it is important to ensure that retirement investors receive sound advice on the investment of retirement assets, and that they are protected from potentially harmful conflicts of interest in the delivery of advice. Investors can best choose the advice models and investments that are right for them when they receive sound advice from investment professionals who are operating in a regulatory environment that is intended to foster and encourage the availability of advice that is in retirement investors' best interest.*

*The Department is undertaking a re-examination of the definition of the term "investment advice" fiduciary under ERISA and the Internal Revenue Code. That rulemaking effort was formally announced as part of the Department's recent semi-annual regulatory agenda. Specifically, as described in the agenda, the rulemaking would propose amendments to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code. The amendment would take into account practices of investment advisers, and the expectations of plan officials and participants, and IRA owners who receive investment advice, as well as developments in the investment marketplace, including compensation and incentive structures that may create dangerous conflicts of interest. As part of this rulemaking effort, EBSA will evaluate available prohibited transaction class exemptions and consider proposing amendments or new exemptions to ensure consistent protection of employee benefit plan and IRA investors. Of course, any regulatory action or exemption proceeding will include public notice and the opportunity for public comment.*

*Question 32*

Secretary Walsh, despite previous bipartisan attempts to address failing multiemployer pension plans and the looming insolvency of the Pension Benefit Guaranty Corporation (PBGC), Democrats rushed through Congress an irresponsible, taxpayer-funded bailout of the

multiemployer system under the guise of COVID relief. The Congressional Budget Office estimated that this single provision will cost American taxpayers upwards of \$86 billion. Worse yet, Democrats let unions and employer plan trustees off the hook for decades of mismanagement and refused to include necessary systemic reforms, ensuring a future crisis will again occur. It is therefore reasonable to assume that plans receiving special financial assistance from PBGC will still run out of money absent additional Congressional action. Mr. Secretary, the recently-enacted taxpayer bailout of multiemployer pension plans notwithstanding, reform is desperately needed to strengthen the financial state of these plans and to return the PBGC, which you chair, to self-sufficiency. What are your plans to provide the Committee with responsible proposals to ensure that multiemployer pension plans are not making benefit promises to workers that they have no intention, and are unable, to keep?

*The “Special Financial Assistance Program for Financially Troubled Multiemployer Plans” program, as passed in the American Rescue Plan Act of 2021 (ARP), enhances retirement security for millions of Americans by providing eligible multiemployer defined benefit pension plans with special financial assistance (SFA) in the amounts required for the plans to pay all benefits due during the period beginning on the date of payment of SFA through the plan year ending in 2051. Congress enacted ARP to address the immediate crisis facing severely underfunded multiemployer plans and the solvency of the PBGC. ARP also provides relief for plans and participants that underwent benefit reductions under the Multiemployer Pension Reform Act of 2014 (MPRA) and the rules applicable to insolvent plans. I am committed to working with Congress, the Administration, and stakeholders on a permanent solution to strengthen the multiemployer pension plan system.*

*Question 33*

Secretary Walsh, by passing a \$86 billion taxpayer bailout of the multiemployer pension system, Democrats refused to address the much-needed structural reforms required to curb the systemic underfunding and chronic mismanagement by the union and employer trustees of multiemployer plans. It is galling that my colleagues across the aisle continue to insist that multiemployer plans are simply victims of economic and industry-specific downturns when the single-employer pension system, which is subject to much stronger funding requirements, fared far better through the same conditions. Secretary Walsh, do you believe that multiemployer plans should be subject to the same funding requirements as the single-employer system?

*Multiemployer plans are funded differently than single-employer plans. They also have different premium structures. Additionally, PBGC involvement is triggered by different events and the guarantee levels are much lower. I am committed to working with Congress, the Administration, and stakeholders on a permanent solution to strengthen the multiemployer pension plan system.*

*Question 34*

Mr. Secretary, in Fiscal Year 2020, the Employee Benefits Security Administration (EBSA) recovered a record \$3.14 billion in direct payments to benefit plans, participants, and beneficiaries. Nearly half of that amount—roughly \$1.5 billion—came from EBSA’s efforts to reunite terminated vested participants with the pensions they earned. These are very impressive



statistics. However, this data conflicts with the narrative spun in your Department's budget request, which claims DOL's worker protection agencies were neglected by the previous administration. The Department is requesting an increase of \$37 million, or 21 percent over the 2021 enacted level, and an additional 185 employees for EBSA. Secretary Walsh, how can the Department justify such a bloated request given the agency's recent success?

*Years of flat budgets and increased expenses have forced EBSA to reduce staffing and imposed stark limits on the investigations that the agency can pursue within its means. EBSA currently has less than one investigator for every 12,000 plans. It is impressive that the agency has been able to do so much with so little, but it is important to recognize that these results have disproportionately come from a single enforcement project relating to terminated vested participants, as identified in your question. The terminated vested program is very cost-effective and has significantly enhanced the retirement security of America's workers, but it is just one part of EBSA's enforcement obligations.*

*There are nearly 154 million workers, their families, and dependents in ERISA-covered retirement, health, and other welfare benefit plans. In addition to making sure plans pay benefits to "missing" participants, the agency also is responsible for overseeing the fiduciary management of more than \$12 trillion in plan assets, the solvency of self-funded health plans, compliance with the laws governing an estimated 2.5 million health plans and 885,000 other welfare plans, parity in the delivery of mental health and substance use disorder benefits, fiduciary plan administration and cybersecurity, the fiduciary management of the federal Thrift Savings Plan, and numerous other matters. Because of the limits of its budget, EBSA has had no choice but to forego important enforcement and compliance assistance opportunities in virtually all these areas. In addition, the agency expects the average dollar size of its recoveries to decline over time as it shifts resources to enforcement areas and projects that achieve important non-monetary results, such as MHPAEA. Even so, the Department expects that it will continue to be the case that every additional FTE the Department can afford will produce far greater results than the costs incurred for that FTE. From the end of FY 2015 to the end of FY 2020, EBSA lost 89 investigators because of budget constraints. If each of those lost investigators had been retained and had merely obtained the average recovery for EBSA investigators in FY 2020, the agency would have recovered an additional \$3.4 million per day – or, on an annual basis, more than three times EBSA's entire \$181 million budget.*

*Of course, these numbers tell only part of the story. In addition to enforcement, EBSA is also responsible for providing guidance to the regulated community, conducting outreach and assistance programs for workers and plan sponsors, running a research program, overseeing the electronic plan reporting system, and issuing regulations obligations. The agency's severe budget constraints have constrained the efforts in these areas too.*

*Question 35*

Mr. Secretary, the Department's budget requests \$6 million on an initiative to "improve DOL's capacity for evidence-based decision making." This may seem like a trivial sum in a multibillion-dollar request, but the budget provides little-to-no justification for the request or an explanation of how the Department plans to spend this taxpayer money. It sounds like the Department is



establishing a slick-named slush fund for the purposes of creating new federal regulations and red tape. Mr. Secretary, what is the purpose and demonstrated necessity for this request?

*This budget request reflects the Department's commitment to grounding decision-making in rigorous evidence about our policies and programs and the populations we serve. That evidence can include statistics about the labor force, performance indicators and measures related to program activities, impact evaluations to gauge how well particular policies or interventions are working, and analysis of data to generate policy-relevant insights. The Department was an early leader in moving towards evidence-based policy, and is now building on that work to implement new requirements called for in the 2018 Foundations for Evidence-Based Policymaking Act ("Evidence Act"). These requested funds will help the Department further build capacity in evidence-based policymaking and comply with the Evidence Act and new requirements from President Biden's Memorandum on Restoring Trust in Government through Scientific Integrity.*

*Question 36*

On November 30, 2018, the Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) issued a Directive (Dir 2019-02) outlining corporate-wide corrective actions using Early Resolution Conciliation Agreements (ERCAs) to resolve violations short of a full compliance review, which can take years to complete. Under this process, contractors agreed to enhanced reporting and monitoring obligations. Specifically, contractors must submit annual monitoring reports to OFCCP for a period of five years, and the scope of the reporting is companywide. OFCCP's standard conciliation agreement reporting is limited to two years and the single establishment that was the subject of the underlying review. Under the Early Resolution Program, OFCCP recovered record back pay amounts and expanded the scope of its annual monitoring oversight of the largest federal contractors in the country. I understand that OFCCP Director Yang will be eliminating the corporate-wide early-resolution program and not entering new ERCAs. What was the reasoning behind the withdrawal of a program that has proven to be a successful compliance tool? What will replace the early resolution program?

*OFCCP has continued to utilize Early Resolution Procedures (Directive 2019-02) to achieve multi-establishment resolutions with effective monitoring. Building on the experience of nearly three years of negotiating Early Resolution Conciliation Agreements, OFCCP is working to strengthen its process to promote robust and ongoing corporate-wide compliance with non-discrimination and affirmative action obligations.*

*Question 37*

OFCCP now has lost two major trials in which the agency's systemic compensation claims and legal arguments were completely denied. In 2020, OFCCP suffered a significant loss in the largest litigation case it has ever brought: its litigation against Oracle. Following a fully adjudicated trial, the DOL Administrative Law Judge denied all of OFCCP's claims and issued a 280-page decision outlining the shortcomings in OFCCP's case, focusing largely on OFCCP's use of a statistical analysis that was found to be contrary to the law. OFCCP elected not to appeal the decision. The loss in Oracle followed another DOL Administrative Law Judge ruling that

denied all of OFCCP's systemic claims against Analogic Corp. in 2019 following a full hearing, and OFCCP also did not appeal its loss in the Analogic Corp. case. Surprisingly, notwithstanding the consistent and complete rejection of OFCCP's attempts to assert claims that were not legally sound, several current and former agency officials, including OFCCP Director Yang, have publicly stated that the ALJ in Oracle did not follow established law, and they do not believe that the decision has any impact on the agency's approach to compensation investigations. Based on OFCCP's losses in the Oracle and Analogic trials, what changes to OFCCP's approach to compensation investigations and systemic litigation claims can be expected? Will OFCCP follow Title VII of the *Civil Rights Act* governing principles in assessing whether systemic discrimination has occurred, and will the agency be governed accordingly in the litigation claims it pursues?

*OFCCP will continue to follow Title VII principles as established by Federal courts. The Department of Labor's Office of Administrative Law Judges and Administrative Review Board apply Title VII principles in their adjudication of OFCCP cases. Since compensation discrimination investigations are complex, the agency presents the most robust evidence possible in its enforcement actions. This typically includes a combination of statistical and anecdotal evidence. Although the ALJ decisions in Oracle and Analogic are non-binding recommended decisions, they do inform how OFCCP develops and investigates its systemic compensation discrimination cases. OFCCP continues to evaluate and improve upon its investigative methods to develop strong compensation cases that meet Title VII standards.*

*Question 38*

A 2016 report by the U.S. Government Accountability Office (GAO) was critical of the process OFCCP uses to select contractors for audit and recommended that the agency implement a compliance certification process. In April 2021, OFCCP added a landing page to its website for the "Affirmative Action Plan Verification Interface" that federal contractors will be required to use for the submission of verifications subject to the penalties of perjury. To date, OFCCP has not activated the Interface or issued any guidance to contractors on what data will be collected or verified, when the collection will begin, or, most significantly, how the information will be used by OFCCP. When can the contractor community expect to receive this information? Will the verification be tailored to require federal contractors to certify that they have their Affirmative Action Plans, rather than the much more burdensome certification of compliance with all the regulations included in 41 C.F.R. Part 60? Specifically, what information will federal contractors be required to submit through the Affirmative Action Plan Verification Interface? In addition, please detail how the verifications or other required information will be used to select contractors for audit, as the GAO recommended?

*OFCCP's Affirmative Action Program Verification Interface (AAP-VI) final proposal is now before the Office of Management and Budget (OMB), and OFCCP anticipates approval later this fiscal year. If approved, the agency will implement a rollout plan that includes training for contractors and OFCCP staff, the creation of accounts for contractors to access AAP-VI, and a Help Desk to provide compliance assistance to help address contractors' questions about AAP-VI access and certification.*

*OFCCP has pursued a transparent process in developing the AAP-VI in compliance with the Paperwork Reduction Act, including two public notices in the Federal Register on September 14, 2020, and on December 29, 2020. These notices invited comments on the agency's proposal and explained how OFCCP would use the collected information. As proposed, contractors would be required to use AAP-VI to verify pre-populated contractor identifying information (e.g., EEO-1 Filing Headquarters Number and Employer Identification Number (EIN)). Contractors will also verify additional pre-populated EEO-1 contractor information such as Establishment Name, Parent Name, Unit Number, Headquarter Number, Establishment Address, Establishment Status, EIN, DUNS, NAICS, Employee Count, and contact information (Name, Title, Phone, E-mail).*

*Once the contractor's information is verified, the contractor would be required to annually certify compliance with developing and maintaining affirmative action programs (AAPs) at each of its establishments, as applicable, and/or for each functional or business unit. The contractor would certify by selecting one of three responses on the status of the development and maintenance of its AAPs.*

*When selecting its response, the contractor would also acknowledge the following: "I attest that the information that has been provided as a part of our Affirmative Action Program (AAP) certification is true and correct to the best of my knowledge. I understand that any attempt to refuse to submit an AAP certification, alteration or falsification of required records or information, and any substantial or material violation or the threat of a substantial or material violation of these provisions may result in the institution of administrative or judicial enforcement proceedings. (CFR 60-1.26, CFR 60-300.65, CFR 60-741.65) I also understand that we may be expected to make our AAP available to OFCCP, upon request. (CFR 60-2.32, CFR 60-300.81, CFR 60-741.81)."*

*Contractors would have at minimum 180 days to comply with the certification requirement after OMB approves the new data collection. This implementation period will ensure that contractors' accounts are functional and that contractors are trained. During the implementation period, OFCCP will provide compliance assistance to contractors through public trainings, website materials, and individual training upon request. Contractors would not be cited for violations or otherwise identified for enforcement because they seek assistance in complying with the AAP-VI certification requirement.*

*If approved, when OFCCP schedules a contractor for a compliance evaluation, the contractor would be required to select the scheduled establishment(s), functional business unit, or corporate headquarters and upload the applicable AAP(s) using the AAP-VI portal.*

*Upon implementation of AAP-VI, OFCCP will explore using annual certification as an additional criterion for the scheduling process. OFCCP uses neutral selection procedures to schedule its evaluations. Contractor establishments and functional units are selected based on application of neutrally applied objective factors. Using annual certification as a criterion means that contractors that do not self-certify or that state that they have not developed an AAP as required by law may be more likely to be on the scheduling list than contractors that have self-certified. This criterion could be useful in helping OFCCP achieve its strategic goal of enforcing the law efficiently and focusing its resources.*

*Question 39*

Will OFCCP continue its practice of being transparent with contractors about preliminary findings throughout a compliance review, including notice to the contractor prior to issuing requests for information and scheduling onsite investigations?

*Yes, OFCCP will continue its practice of being transparent with contractors about preliminary findings throughout a compliance review. This includes communication with contractors prior to requests for information and scheduling on onsite investigations.*

**Representative Joe Wilson (R – SC)***Question 1*

Secretary Walsh, I represent the Savannah River Site in Aiken, South Carolina. Many patriots who worked at this Site during the Cold War are now eligible for Energy Employees Occupational Illness Compensation Program (EEOICP). Our office has had no shortage of complaints when it comes to navigating this program and barriers to appropriate care.

Do you have plans to work with stakeholders to develop a more transparent, equitable, and claimant friendly adjudication process, as Congress intended?

The Program's 2019 Ombudsman report mentioned complaints regarding collection notices received for a bill that they thought was paid for by the program or in obtaining emergency home health care services. A paraphrased quote from the report states "stress from health problems combined with problems trying to resolve these medical bills and fear of financial impact arising from unpaid medical bills led some claimants to assert that they wish they hadnot filed a claim in the first place.

What steps do you plan to take to improve the medical claim adjudication process and delivery of promised goods to ensure that medical providers are compensated in a timely manner?

*The Office of Workers' Compensation Programs (OWCP) is committed to ensuring a transparent, equitable, and claimant-friendly adjudication process and delivery of promised compensation and other benefits for energy workers. Over the past several months OWCP and DEEOIC have taken several steps to reach out to, hear from, and assist the stakeholder community. DEEOIC holds virtual outreach webinars on a monthly basis, which are open to the public, and recently held a stakeholder webinar on the overall state of the program and addressed questions from stakeholders.*

*First, senior leadership has engaged the stakeholder community, including the Alliance of Nuclear Workers' Advocacy Group (ANWAG) and home health care companies. OWCP has addressed billing and authorization issues raised during these meetings by working with the billing contractor to confirm resolution of issues as they are raised by individual stakeholders.*

*Second, DEEOIC's eleven Resource Centers have been reopened to the public for in-person claim filing assistance so that claimants can receive prompt access to assistance needed to establish their entitlement to benefits. DEEOIC has also worked closely with the National Institute for Occupational Safety & Health (NIOSH) to ensure that terminal cases (claimants with a terminal diagnosis) are expedited and has also worked to expedite the commencement of benefit payments in those terminal cases when the claimant is near death. DEEOIC has continued to work cooperatively with the Advisory Board on Toxic Substances and Worker Health to respond to all recommendations.*

*Finally, DEEOIC has completed and submitted a Policy Impact Report for the Appropriations Committee, which explains in detail all program process changes in fiscal years 2018-2020. That report notes policy changes and the rationale that was the basis for the programmatic changes, along with an explanation of how the changes further the mission of the program to help the stakeholder community.*

*Although, there has been an approximate 15% increase in claims for Ancillary Medical Services (including home health care) relating to the care of employees suffering from work related illnesses over the past year, DEEOIC remains committed to the timely and accurate processing of claims to affected workers. In order to provide more transparency and uniformity in the claims adjudication process, DEEOIC has updated its procedure manual over the past three years. These updates have included the establishment of presumptive criteria which allow claims examiners to bypass normal development steps for such conditions. Claimants presenting claims that satisfy presumptive standards are able to quickly receive affirmative decisions that award medical and lump sum compensation.*

*DEEOIC has also continued to develop internal guidance to improve both the effectiveness and accuracy of internal medical benefit adjudication. These updates provided a better understanding of the information that DEEOIC relies upon to assess the medical justification for Home and Residential Health Care Providers, who are increasingly involved in care for Energy's affected workers. The updates have also facilitated documentation collection to support HRHC billing requests.*

*Because DEEOIC has accepted that a physician who is familiar with an employee, and who is treating them for an illness, is the best possible source of evidence regarding the claimed medical condition, DEEOIC has made a number of changes to internal guidance, instructing claims staff to prioritize development with a treating physician in matters of diagnosis clarification, causation, and medical necessity of certain services.*

*Based on input from its Advisory Board and external stakeholders, DEEOIC implemented a new Occupational History Questionnaire (OHQ) process to allow claimants more time to prepare for the OHQ interview and to gather necessary documentation to describe an employee's work that brought them into contact with toxic substances. DEEOIC also altered the OHQ interview process to allow an interviewee more opportunity to provide open-ended responses to interview questions rather than pre-selected options.*

*Question 2*

Mr. Secretary, as you are aware, during the last session of Congress we enacted the SECURE Act which was a significant first step to putting America's workers and retirees on a path to increasing their retirement security. And just recently, here in the House, the Ways and Means Committee took another step forward on that path with the unanimous passage of the Securing a Strong Retirement Act of 2021. However, we know that there is still much more that can and needs to be done, especially with many workers and retirees experiencing an unexpected detour on that path when our nation found itself amid an unprecedented health crisis that spurred momentous disruptions to our nation's and the world's economies, impacting the retirement savings of millions of workers and retirees, and deepening their anxiety about their retirement outlook and their ability to have sustainable income throughout their retirement years.

What plans does the Department have to address the challenges America's workers and retirees face as they seek to accumulate sufficient savings to enjoy a secure and dignified retirement. Specifically, what if any new rules or changes to existing regulations does the Department have in mind to: (1) expand opportunities for America's workers and retirees to save, (2) facilitate access to and use of protected lifetime income solutions to ensure America's workers and retirees do not outlive their retirement savings, (3) enable the use of new, modern, and innovative technologies to streamline processes and improve the end-user experience of retirement plan participants, and (4) ensure that America's workers and retirees will be protected while having access to valuable financial products and services they need to help them save for their retirement years?

*The mission of the Department's Employee Benefits Security Administration is to ensure the security of the retirement, health, and other workplace-related benefits of America's workers and their families. We accomplish this mission by developing effective regulations; assisting and educating workers, plan sponsors, fiduciaries, and service providers; and vigorously enforcing the law. With respect to the issues you identified in particular, examples of actions the Department is taking include:*

*(1) Expanded Access. The Department is working to implement the new "Pooled Employer Plan" or "PEP" provisions added to ERISA by the SECURE Act. The PEP provisions permit unrelated employers, particularly small businesses, to band together and offer a single retirement savings arrangement, such as a 401(k) plan, to their employees. The Department continues to work on implementing various SECURE Act provisions for PEPs and similar arrangements, including registration, annual reporting, and fiduciary provisions.*

*(2) Lifetime Income.*

*(a) We periodically revisit our existing guidance for plan fiduciaries to give them clearer standards for integrating lifetime income products into ERISA retirement plans. Right now, for example, we are reviewing section 204 of the SECURE Act, which amended section 404 of ERISA, to add a statutory fiduciary safe harbor for plans selecting an annuity or similar contract for their plan. Although the Department previously issued a regulation, 29 CFR 2550.404a-4, which provided a similar safe harbor for individual account plans, we are assessing the scope of this new statutory provision and whether we*

*need to take any action, regulatory or otherwise, to assist plan fiduciaries in taking advantage of this new statutory safe harbor, potentially increasing the number of ERISA retirement plans that include annuity products or features.*

*(b) We also know that it's important to better educate plan participants about how lifetime income products and features can be used to manage their retirement savings after they retire, and make sure their savings last. We are working right now to finalize a rule that will improve participants' pension benefit statements by showing them an estimate of what their savings so far might look like when translated into a lifetime annuity-type monthly payment at retirement. Although adoption rates are relatively low, our hope is that as participants become more familiar with annuity features and terminology, they may be more likely, when appropriate, to take advantage of their plans' annuity products.*

*(3) Use of New Technologies. Information technologies have come a long way since ERISA was enacted in 1974 and, since then, we have attempted to regularly modernize our regulatory and other guidance. We agree that the end-user experiences for retirement plan participants who have access to web-based communications can be improved. For example, workers who now have internet access at work and at home and web-enabled smartphones or similar devices, can access information anywhere, at any time. A number of plans and service providers have already developed creative formats and processes for furnishing information to retirement plan participants. Our 2020 electronic delivery safe-harbor regulation, 29 CFR 2520.104b-31, is an example of our ongoing efforts to permit pension plans and participants to take advantage of new information technologies in appropriate circumstances. We do have to be careful, however, to make sure that our guidance, rules, and regulations do not go too far in permitting or mandating the use of advanced technologies for all plan participants and beneficiaries. There are disparities in internet access, as well as comfort and experience level, with electronic technologies among the population of retirement plan participants, and we need to protect participants at the same time that we pursue efficient and effective improvements in the ERISA disclosure framework.*

*(4) Fiduciary Investment Advice. The Department is undertaking a re-examination of the definition of the term "investment advice" fiduciary under ERISA and the Internal Revenue Code. That rulemaking effort was formally announced as part of the Department's recent semi-annual regulatory agenda. Specifically, as described in the agenda, the rulemaking would propose amendments to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code. The amendment would take into account practices of investment advisers, and the expectations of plan officials, participants, and IRA owners who receive investment advice, as well as developments in the investment marketplace, including in the ways advisers are compensated that can create potentially dangerous conflicts of interest. As part of this rulemaking effort, EBSA also will evaluate available prohibited transaction class exemptions and consider proposing amendments or new exemptions to ensure consistent protection of employee benefit plan and IRA investors. Of course, any regulatory action or exemption proceeding will include public notice and the opportunity for public*



*comment.*

**Representative Tim Walberg (R – MI)**

*Question 1*

Ensuring that people not only save for retirement but ensuring their savings last throughout their whole retirement is of utmost importance. Last year, my Democratic colleague Rep. Norcross and I introduced the *Lifetime Income for Employees Act*, which amends ERISA safe harbor standards so not fully liquid investments like annuities can be a part of a qualified default investment alternative or QDIA. Will you and your colleagues at EBSA work with Congress to further integrate lifetime income solutions, like those proposed in the *Lifetime Income for Employees Act*, into workplace retirement savings plans through the Department's regulatory guidance?

*The Department of Labor will always be open to working with members of Congress to help America's workers achieve a secure retirement, including through the exploration of ideas to facilitate greater access to and use of lifetime income solutions in defined contribution plans including plans with QDIAs. EBSA is and has been committed to this particular issue for a very long time. For instance:*

- *We have issued guidance or taken other actions to give clear direction to plan fiduciaries who wish to integrate lifetime income solutions into ERISA retirement plans including as QDIAs. See, for example, 2014 Information Letter to J. Mark Iwry, Senior Advisor to the Secretary and Deputy Assistant Secretary for Retirement and Health Policy, Department of the Treasury, from Phyllis Borzi, Assistant Secretary, EBSA (Oct. 23, 2014) (confirming that the use of unallocated deferred annuity contracts as fixed income investments does not cause a series of target date funds to fail to satisfy the requirements to be a QDIA).*
- *We are working right now to finalize a rule that will improve participants' pension benefit statements by showing them an estimate of what their current savings looks like when translated into a monthly annuity payment for life commencing at retirement.*
- *We are reviewing the SECURE Act's codification of a fiduciary safe harbor for plans selecting an annuity provider for their plan. Although we previously issued a regulation providing such a safe harbor, we are assessing the scope of this new statutory provision and whether we need to take any action, regulatory or otherwise, to assist plan fiduciaries in taking advantage of this safe harbor.*

**Representative Elise M. Stefanik (R – NY)**

*Question 1*

Mr. Secretary, the Payroll Audit Independent Determination program—or the PAID program—was established by the Trump administration in 2018 to encourage business owners to conduct payroll audits and to self-report violations if any are discovered. We want workers to be paid what they are owed. Between its inception and July 2020, the successful PAID program resulted in more than \$7 million in back wages paid to more than 11,000 workers. In fact, PAID actions



secured four times the amount of back wages compared to traditional full enforcement investigations, and more than 10 times the backwages per Labor Department staff hour invested. And yet despite this success, this Administration ended this program. Why?

How can you defend this decision in light of the demonstrated success of this program, which encouraged compliance and faster payment of back wages to workers?

*The Department announced January 29th, 2021 that it was ending the Payroll Audit Independent Determination (PAID) program, launched in 2018. The program allowed employers to self-report federal minimum wage and overtime violations under the FLSA but allowed employers to avoid litigation, penalties, and damages. Approximately 70 employers participated and any lessons learned will be incorporated into the Department's longstanding self-audit and office audit programs. The Department continues to provide outreach and education resources for employers. Employers may continue to contact any of our 200 Wage and Hour Division offices to confidentially discuss their compliance questions, or to self-report violations they want to resolve.*

**Representative Rick Allen (R – GA)**

*Question 1*

Secretary Walsh, when you testified at the House Appropriations Committee hearing in April, my colleague, Rep. Andy Harris, asked you if the Department of Labor would consider extending the ERISA stand-alone telehealth exemption. Currently, employers are allowed to offer stand-alone telehealth benefits to employees who are not eligible for full benefits, including seasonal or part-time workers. At the time you said that you would have to circle back with him. Since it has been over a month since that hearing, I'm sure you have had the opportunity to formulate a policy response. Mr. Secretary, does the Department of Labor support extending the ERISA stand-alone telehealth exemption?

*As you noted, the Department has issued guidance that provides a current pathway for employers to offer stand-alone telehealth benefits to certain employees. In light of the COVID-19 public health emergency, the Departments of Labor, Health and Human Services, and the Treasury worked together to provide temporary, limited-scope relief for group health plans (and any health insurance coverage offered in connection with a group health plan) that solely provides benefits for telehealth or other remote care services from the group market reforms. This relief applies to telehealth and other remote care service arrangements for the duration of the public health emergency period that are offered to employees (or their dependents) who are not eligible for coverage under any other group health plan. The Departments continue to enforce the prohibitions on pre-existing condition exclusions, discrimination based on health status and rescissions, as well as the requirements related to parity for mental health and substance use disorder with respect to these types of arrangements.*

*As the fight against COVID-19 continues, the Department continues to study its options under the law to determine what guidance may be needed after the emergency period comes to an end. The Department recognizes that the widespread availability and use of telehealth and other*

*remote care services are vital to combat the COVID-19 public health emergency and that many plans and issuers are currently offering benefits for telehealth and/or other remote care services in some form. While many employers have chosen to offer these benefits as part of their ERISA – covered health plan, the Department understands that some employers wish to offer telehealth benefits to employees through arrangements exempted from ERISA’s requirements. The Department is carefully considering these requests in the context of its responsibility to ensure the security of the health benefits of America’s workers and enforce the protections that ERISA provides for those benefits, including telehealth benefits.*

*Question 2*

Secretary Walsh, we are less than a month away from the first statutory deadline to implement portions of the *No Surprises Act*, which was enacted in December as part of the *Consolidated Appropriations Act, 2021* to end surprise medical billing. The Department of Labor, along with the Departments of Health and Human Services and the Treasury, must publish regulations establishing the methodology that plans will use to determine the qualifying payment amount and independent dispute resolution process. I saw that the interim final rule is now under review at the Office of Management and Budget and want to thank you for your work on implementing this important law in a timely manner. The rulemaking process is extremely important, as the decisions you make regarding the qualifying payment amount and independent dispute resolution processes have the potential to favor some stakeholders over others.

- a. How have you ensured the interim final rule protects the interests of patients who are subject to surprise medical bills and is fair to other affected stakeholders?
- b. How have you been engaging employer plan sponsors to solicit their feedback?
- c. How do you plan on incorporating public comment on the interim final rule into subsequent rules?
- d. If the interim final rule is implemented in a way that cost patients money instead of saving patients money will the tri-agencies make changes before finalizing the rule?

*In drafting the interim final rule, the Departments of Labor, Health and Human Services and the Treasury (the Departments), have engaged in significant stakeholder engagement to solicit feedback from a wide range of diverse stakeholders. The Departments received and carefully considered numerous stakeholder letters from members of Congress as well as a variety of stakeholders that will be affected by the surprise medical billing regulations. In addition to reviewing this early feedback, the Departments have participated in a series of stakeholder listening sessions and meetings to obtain additional feedback from interested stakeholders. Those include meetings with consumer groups, group health plans and health insurance issuers, medical providers and facilities, employer organizations and unions, provider groups, air ambulance providers, plan sponsors, and independent arbitrators. The Departments have also conferred with state insurance regulators in an effort to learn from their experiences in the implementation of certain state surprise medical billing laws. The Departments will carefully review stakeholder comments that will be submitted in response to the interim final rule and will*

*continue to engage with stakeholders as the Departments work to fully implement these provisions.*

*The Departments also intend to monitor the effects of the regulation and its implementation and will address concerns through sub-regulatory guidance and/or future rulemaking as appropriate.*

*Question 3*

Secretary Walsh, in crafting the \$86 billion taxpayer bailout of the multiemployer pension system, Congressional Democrats completely disregarded the extreme burden it placed on the American taxpayer—most of whom will not benefit from the open-ended and expensive provision. To put matters into perspective, according to the most recent data from the Pension Benefit Guaranty Corporation (PBGC), the multiemployer system is collectively underfunded by \$673 billion. As Chair of PBGC's Board of Directors, how will you protect the American taxpayers who are paying for this bailout, from again having to bankroll another boondoggle because of further union and employer mismanagement of the multiemployer system?

*The "Special Financial Assistance Program for Financially Troubled Multiemployer Plans" program, as passed in the American Rescue Plan Act of 2021 (ARP), enhances retirement security for millions of Americans by providing eligible multiemployer defined benefit pension plans with special financial assistance (SFA) in the amounts required for the plans to pay all benefits due during the period beginning on the date of payment of SFA through the plan year ending in 2051. Congress enacted ARP to address the immediate crisis facing severely underfunded multiemployer plans and the solvency of the PBGC. ARP also addresses the hardship created by benefit reductions. I am committed to working with Congress, the Administration, and stakeholders on a permanent solution to strengthen the multiemployer pension plan system.*

**Representative James Comer (R – KY)**

*Question 1*

Mr. Secretary, following the release of President Biden's American Jobs Plan, you expressed a commitment to growing local economies. One of the entrepreneurial paths to owning a business is offered by the franchise model, which has created 10.9 percent of new private sector jobs since 2012. However, at the same time you've endorsed H.R. 842, the Protecting the Right to Organize Act, a radical bill that would codify the confusing, unworkable, and discredited Obama-era joint-employer standard and would result in a loss of up to \$33 billion in annual economic output in the franchise sector. How does your Department's budget account for the jobs that would be lost given the PRO Act's damaging changes to the joint employer definition? And what would you advise that business owners tell the workers they are forced to fire as a result of this radical policy change?

*There is no evidence that the joint employer standard under the PRO Act will lead to job loss. It will help ensure that workers have the opportunity to obtain good jobs with a real choice to join*

a union.

*Question 2*

President Biden issued an Executive Order raising the minimum wage for federal contractors to 15 dollars an hour. As you know, a 2021 Congressional Budget Office report found that a 15-dollar national minimum wage could result in employment losses as high as 2.7 million jobs. Since the order was issued, I have already heard from contractors in my district who are now having to consider laying off their employees. One federal contractor located on base at Fort Campbell in my district has hard decisions ahead regarding whether to renew their contracts, knowing the government may step in and mandate an unsustainable wage for their operations. What advice would you provide these business owners and employees who may lose their jobs because of the President's actions?

*Executive Order 14026 increases the hourly minimum wage for workers performing on or in connection with covered federal contracts to \$15, beginning January 30, 2022. The Executive Order directs that the Department issue regulations to implement the Order by November 24, 2021. Pursuant to that directive, the Department will be engaging in notice-and-comment rulemaking to promulgate regulations implementing Executive Order 14026. The Department submitted a draft Notice of Proposed Rulemaking (NPRM) to OMB's Office of Information and Regulatory Affairs (OIRA) on June 17th, and expects to publish the NPRM in the Federal Register in July. Contractors, workers, and other interested parties will have the opportunity to comment on the NPRM, including the regulatory analysis, when it is published.*

*The Executive Order explains that raising the minimum wage enhances the productivity of workers and generates higher-quality work by boosting workers' morale, health, and effort; reducing turnover and absenteeism; and lowering supervisory and training costs. The Order seeks to promote economy and efficiency in Federal procurement by raising the minimum wage for covered federal contract workers.*

**Representative Fred Keller (R – PA)**

*Question 1*

Secretary Walsh, during the Obama administration, OSHA was uniquely antagonistic towards employers, focusing on overzealous enforcement and punishment rather than working with employers to improve workplace safety outcomes and prevent accidents before they happen. This included the policy of regulation by shaming, which involved publicizing the results of an OSHA inspection before a business owner had the opportunity to contest the citations, many of which were ultimately overturned. Unfortunately, we are seeing signs that this practice is making a comeback at OSHA. Do you support the adversarial policy of shaming employers and should businesses expect this lack of due process to continue to be a common practice under your watch at the Department?

*OSHA agrees that preventing workplace accidents and encouraging employer compliance is desirable and saves lives. Compliance Assistance Officers are available to work with employers*

*to ensure that they are using best practices and complying with the requirements of the Act. However, some employers willfully and repeatedly violate the OSH Act and put their employees in harm's way.*

*OSHA does not have the resources to perform enforcement visits at more than a tiny fraction of the nation's workplaces. It is therefore important for OSHA to leverage its resources to improve working conditions and reduce hazards at all workplaces that OSHA will never be able to inspect. Publicizing the results of OSHA inspections is one way to make efficient use of OSHA's limited resources. There is abundant evidence that promotion of OSHA inspections and citations results in workplace safety improvements at other workplaces.*

*Publicizing inspection results gives notice to the regulated community that OSHA is serious about enforcing the mandate of the Act, while providing information about hazardous conditions that violate OSHA requirements.*

#### *Question 2*

Secretary Walsh, on March 12, DOL's Wage and Hour Division announced its intention to withdraw the Trump administration's final rule clarifying joint-employer status under the *Fair Labor Standards Act*. This common-sense and workable joint-employer rule uses a four-factor balancing test for determining joint-employer status where an employee performs work for one employer that simultaneously benefits another entity or individual. Prior to this rule, the Obama administration promoted a broad and vague indirect-control joint-employer test. In the March 12 notice, your Department acknowledges that a lack of regulatory guidance in this area may impose additional potential costs on the regulated community.

Mr. Secretary, how will withdrawing the well-received joint-employer rule serve job creators, small businesses, and workers?

Have you anticipated the potential uncertainty, costs, and inefficiencies created by this misguided decision?

*The Department has reviewed the public comments that it received in response to its March 2021 notice of proposed rulemaking to rescind the 2020 Joint Employer Rule, and a draft final rule is currently under review with OMB's Office of Information and Regulatory Affairs (OIRA). This rulemaking is ongoing, and therefore, the Department is unable to discuss the possible contents of any final rule.*

#### **Representative Gregory F. Murphy (R – NC)**

#### *Question 1*

Secretary Walsh, the current administration has expressed strong support for expanding the number of apprenticeship opportunities available across the country. The Industry Recognized Apprenticeship Program model, also known as IRAP's, was created to provide a more flexible option for employers that find the registered system too cumbersome and expensive. This

industry-led, market-driven system was intended to supplement – not supplant – the existing registered apprenticeship system. Unfortunately, some industries like construction, where high demand for skilled labor has continued even throughout the pandemic, were excluded—and the administration has since cut support for the IRAP program. The registered program, which at best graduates just over 80,000 individuals annually, is clearly not sufficient to meet industry's need for skilled workers. Funding alone is not enough to fix this problem if employers simply choose not to participate because of administrative burdens. Whether IRAPs or not, will you commit to working with all parties and partners, including those who have traditionally not participated in apprenticeships, to explore options for other flexible models to supplement the registered system that encourage employers in all industries to launch and expand earn-and-learn opportunities?

*The Department is committed to working with all parties and partners to explore options for quality workforce development models that encourage employers in all industries to launch and expand earn and learn opportunities. Registered Apprenticeship is a proven strategy that offers high quality training, related instruction, and wage progression, and has demonstrated success in multiple industries. This Administration is committed to making it easier to continue to expand apprenticeships into new industries and occupations, and among underrepresented groups. In response to the President's Executive Order on Strengthening Registered Apprenticeship, the Department has held over twenty virtual listening sessions over the past several months to hear directly from industry, education, equity, workforce system stakeholders on ways to both modernize, expand, and diversify Registered Apprenticeship programs. In early June of this year, the Department held a virtual listening session that focused exclusively on the IRAP model, wherein representatives from the 27 recognized Standards Recognition Entities provided their feedback on the IRAP model, as well as suggestions for how to modernize and strengthen the Registered Apprenticeship system moving forward. The Department will share these findings with the Advisory Committee on Apprenticeship to inform the Committee's work on developing recommendations related to expanding earn-and-learn opportunities. Finally, we would also note that the Department currently supports a broad range of work-based learning models including on the job learning (OJT) and pre-apprenticeship funded under WIOA, as well as critical programs for youth including Job Corps and Youthbuild.*

#### *Question 2*

Secretary Walsh, I am certainly disappointed that you will cut funding for the IRAPs program and have declared that you will not approve additional Standards Recognition Entities (SREs), which I believe offered promise as a new and innovative model for apprenticeships. However, I know that the Department has said it will allow existing SREs to continue operating, albeit without funding or additional support from the Department. While I am concerned that this lack of support will lead to these innovative models dying on the vine, I think it offers an opportunity to examine their outcomes to be measured against the registered programs under DOL's umbrella. Will you share information learned about apprenticeships supported through the SRE model and commit to supporting them if they prove successful at providing more apprenticeship opportunities?

*The Department is fully committed to sharing information learned about apprenticeships*

*supported through the IRAP model. Following the receipt of IRAP performance data for the first cohort of IRAP apprenticeship programs (to be furnished to the Department by approved SREs by November 15, 2021), the Department will review these metrics and, to the extent that any meaningful comparisons can be made with corresponding data reported from the Registered Apprenticeship system, will publicly share this information.*

*However, we would like to emphasize that while the Department approved 27 SREs between the period between May 11, 2020 (when the IRAP final rule was effective) and February 17, 2021 (the date the Department suspended recognizing new SREs), to date only four SREs have recognized any IRAPs. Additionally, according to the IRAP Program and Performance Reporting System, as of June 3, 2021, of the 166 IRAPs approved, 158 were recognized by a single SRE who provided dual IRAP recognition to existing programs that they were accrediting, not new programs.*

*While the Department appreciates the leadership of the current SREs, the Department has not seen a significant demand for or level of interest from stakeholders to become SREs. Instead of the hundreds of applications that the previous Administration expected, the Department only received approximately two dozen SRE applications when it first launched, and the number has been significantly decreasing ever since, with only 25 applicants during round one, 12 applicants during round two (including 2 resubmissions from round 1), and only 10 applicants during round three. Consequently, these results indicate that the level of interest in the IRAP approach to apprenticeship is considerably lower than originally anticipated, and the Department is concerned that the current number of approved IRAPs is insufficient to demonstrate the model's sustainability in a meaningful manner moving forward.*

*In regards to funding, it should be noted that Congress has yet to appropriate any funds specifically for IRAPs.*

### *Question 3*

*With the Workforce Innovation and Opportunity Act (WIOA) up for reauthorization, we must consider the fact that currently just over 150,000 individuals receive skills through the federal workforce system every year. This is not a sufficient return on investment of hardworking taxpayer dollars. Beyond just throwing money at this system, it is clear that to fully benefit from and build upon the reforms made in the last reauthorization, the system itself needs to be brought into the 21st century. The most critical piece is to better align the system with employer demands if we want to get Americans back to work. What changes need to be made in order to improve program performance and better streamline delivery of services through the workforce system? I hope you will commit to working with Congress to help maximize the benefits in this system. To that point, when can we expect your recommendations for reauthorization?*

*Improvements to the common performance measures can achieve better transparency and accountability. Foundational employment and earnings measures should be reported on by all WIOA programs, supported by adaptable and modern reporting systems, given that the achievement of labor market outcomes is a core goal across the system. The Administration also proposes adopting a pre-program employment and earnings measure and longer-term*



*employment and earnings measures (measured at one, three, and five years after program exit) to ensure workers served by the WIOA system receive services that will lead to long-term and improving employment trajectories in good-quality jobs. New information is also needed on the quality of WIOA participants' job placements, and that states and local areas should be held accountable for the performance outcomes of their most vulnerable groups with barriers to employment. WIOA reauthorization can take important steps to break down silos and encourage system and program alignment toward delivering equitable outcomes for workers and communities, and regional economies. It can also allow for greater collaboration between DOL and the Department of Education, and coordination with the SNAP and TANF systems, as appropriate.*

*Additionally, DOL is working to identify and expand the types of industries and occupations that are suitable for registered apprenticeship programs. For example, we are working with the Office of National Drug Control Policy to explore opportunities to leverage the registered apprenticeship model to expand the substance use disorder workforce that is desperately needed to provide effective treatment while we are facing a national epidemic of opioid and substance use.*

*I outlined recommendations for WIOA reauthorization in my written testimony, and welcome the chance to further discuss any aspect of reauthorization.*

**Representative Mariannette Miller-Meeks (R – IA)**

*Question 1*

In 2018, the Department of Labor issued regulation allowing small businesses and self-employed individuals to access high quality and affordable healthcare coverage through association health plans (AHP). Allowing small employers and self-employed individuals to group together for health insurance purposes allows them to purchase a health plan the same way large employers do. AHPs are subject to all of the Affordable Care Act's (ACA) group health plan coverage requirements. Data shows that AHPs voluntarily cover all 10 of the ACA's essential health benefits, and these plans typically have broader provider networks relative to ACA-compliant small-group and individual-market plans. In 2019, the AHP regulations were invalidated by the D.C. District Court, but a review of that decision is pending at the D.C. Circuit Court of Appeals. If the Circuit Court overturns the District Court ruling and upholds the regulations, will the Department of Labor respect that ruling and implement the regulations, or does the Department plan to rescind these regulations through a new rulemaking process?

*With regard to the decision at the D.C. Circuit Court of Appeals, the Department of Justice has filed an abeyance motion. The Department is working with the Department of Justice to evaluate potential options.*

*Question 2*

Secretary Walsh, you were quoted in a Reuters article as saying that gig workers should be classified as employees and deserve work benefits, like full health coverage. This statement had



a significant impact on the stock market and caused shares in Uber, Lyft, Doordash, and Grubhub to fall significantly. You later said that you were misquoted. Is that an indication that you recognize this policy could destroy the business model of these companies?

*Misclassification of employees as independent contractors has been a problem that existed long before work was assigned digitally. It is possible to provide worker protections in a modern economy, and I know that our businesses can harness new technology and find solutions that work for both employers and workers.*

*Question 3*

Do you still hold the views reflected in the Reuters article, or has your position on the gig economy and gig workers changed?

*Worker protections under federal law create a safety net of security and benefits that provide ladders of opportunity into the middle class. This safety net should be further strengthened. As our recovery continues, we should be supporting the employer-employee relationship and all of the opportunities that it provides.*

**Representative Burgess Owens (R – UT)**

*Question 1*

Secretary Walsh, last year, the Department of Labor issued a safe harbor rule that allows for default electronic delivery of retirement plan documents. Before using this safe harbor, plan sponsors must send a one-time paper notice to plan participants notifying them of the electronic delivery. Plans using the safe harbor must also allow participants to opt into paper copies at no cost to them if they prefer paper. This 2020 rule was finalized after it garnered support from a broad range of retirement savings stakeholders, including several union pension funds.

The shift toward e-delivery allows for cost-effective and convenient access to retirement benefit information. In fact, plan participants with e-delivery have higher levels of engagement with their investments and higher contribution rates that better prepare them for retirement. This final e-delivery rule is a balanced approach that contains important consumer protections and harnesses the ability of electronic communication to increase engagement and retirement savings and also lower costs.

- a. Would you agree that increased online engagement by plan participants has a positive impact on retirement preparedness?
- b. If so, can I count on you to build on this progress and continue efforts to enhance the use of electronic defaults to make it easier for retirement savers to engage early and ensure stronger retirement savings?

*Information technologies have come a long way since ERISA was enacted in 1974 and, since then, we have attempted to modernize our regulatory and other guidance. We agree that the end-*

*user experiences for retirement plan participants who have access to web-based communications can be improved. For example, workers who now have internet access at work and at home and web-enabled smartphones or similar devices, can access information anywhere, at any time. A number of plans and service providers have already developed creative formats and processes for furnishing information to retirement plan participants. Our 2020 electronic delivery safe-harbor regulation, 29 CFR 2520.104b-31, is an example of our ongoing efforts to permit pension plans and participants to take advantage of new information technologies in appropriate circumstances. We have to be careful, however, to make sure that our guidance, rules, and regulations do not go too far in permitting or mandating the use of advanced technologies for all plan participants and beneficiaries. There are disparities in internet access, as well as comfort and experience level, with electronic technologies among the population of retirement plan participants, and we need to protect participants at the same time that we pursue efficient and effective improvements in the ERISA disclosure framework.*

*Question 2*

I understand that the Department is also undergoing a study of the impact of the 2020 rule on seniors and those in the rural area as required by the Consolidated Appropriations Act. This report is due at the end of this year. Will your Department meet that statutory deadline?

*The Department as part of its ordinary activities monitors its regulations and areas in which its regulations can be improved. Staff who have looked at the provision have expressed concern that the requested focus of the evaluation may be based on a misunderstanding of the rule. We were asked to study seniors, rural populations, and others with potentially limited access to email and other internet-based communications. The rule, however, permits electronic delivery by default only with respect to individuals that have internet access -- that is, an employee must either have provided the employer with an email address or a web-based mobile number, or been assigned an address for business reasons other than receiving ERISA disclosures. Moreover, if an email address becomes invalid or inoperable, and the problem cannot be fixed, then the plan can no longer rely on the rule to send disclosures to that person electronically.*

*The rule was designed to ensure that these vulnerable populations with little or no internet access may not receive their ERISA notices electronically. If a worker does not have access to the internet, their employer cannot use the rule to send them notices electronically. That said, any evaluation of our rule's effect is complicated by two very significant factors:*

- First, the Department responded to COVID-related challenges facing employee benefit plans by providing additional flexibility to address deadlines and permissible delivery mechanisms for notices and disclosures required under ERISA. That relief makes it impossible for us to measure any impacts of our final e-disclosure rule, independent of disclosures that may be made in reliance on the COVID relief.*
- Second, the Department's final electronic delivery rule, published in May 2020, includes an eighteen-month transition period during which plans can continue to use alternative electronic delivery methods for specific documents based on prior sub-regulatory guidance -- such as pension benefit statements and default investment notices. Thus, until November of this year, plans may be delivering documents electronically pursuant to*

*other standards. Again, this makes it difficult to discern the impact of our final e-disclosure rule, in isolation from this temporary guidance.*

*Based on the foregoing, you can see the challenges we face in attempting to determine the issue to be studied and conduct a study in the limited time provided for in the request for the study. We nonetheless are attempting to explore possible ways to evaluate the effectiveness of our rule, in consideration of this deadline.*

**Representative Diana Harshbarger (R – TN)**

*Question 1*

You have staunchly defended the decision to move forward with a Temporary Emergency Standard, despite the fact that America is reopening and the risk of contracting COVID-19 is significantly reduced? Did you continue this route to fulfill the wishes of Biden's January 21 Executive Order or because you believe that vaccinated workers are not protected against the virus?

*OSHA recognizes the promise of vaccines to protect workers, but vaccination has not eliminated the grave danger presented by the SARS-CoV-2 virus to the entire healthcare workforce. Healthcare providers treating suspected and confirmed COVID-19 patients are expected to have higher exposures to the SARS-CoV-2 virus than others in the workforce, because such work often involves repeated instances of close contact with infected patients. NIOSH stated in May of this year that the "available evidence shows that healthcare workers are continuing to become infected with SARS-CoV-2, the virus that causes COVID-19, including both vaccinated and unvaccinated workers, and the conditions for the transmission of the virus exist at healthcare workplaces."*

*OSHA has therefore moved forward with an Emergency Temporary Standard that is narrowly focused to provide protection to these vulnerable frontline workers who remain at risk of exposure to COVID-19. The standard includes some exemptions for vaccinated workers but also includes some protections that apply to these employees: these decisions were both based on the best available scientific evidence.*

*Question 2*

What is your stance on vaccine passports for Americans entering a place of business without a mask? What about entering a government building?

*DOL has not set policy regarding proof of vaccination for persons entering businesses or government buildings.*

*Question 3*

Do you support authorizing the Voluntary Protection Program? If not do you support regulatory elimination?

*OSHA's Voluntary Protection Program has been in existence for decades and is a vital portion of the agency's system to improve workplace health and safety. OSHA's VPP provides a means to highlight effective health and safety management systems that use OSHA regulations as a minimum baseline, but go beyond that minimum, to improve conditions for employees. The Department has no plans to eliminate the program, through regulation or otherwise.*

*Question 4*

The Biden Administration eliminated the Industry Recognized Apprenticeship Program (IRAP) shortly after the Trump Administration got it off the ground. As you know, the IRAP model provided a less burdensome process and the result was a high number of new apprenticeship programs registering with the Department of Labor under the new model. Why can't you support this kind of innovation in workforce development?

*The Department has not seen a significant demand for or level of interest from stakeholders to become SREs. Instead of the hundreds of applications that the previous Administration expected, the Department only received approximately two dozen SRE applications when it first launched, and the number has been significantly decreasing ever since, with only 25 applicants during round one, 12 applicants during round two (including 2 resubmissions from round 1), and only 10 applicants during round three. Consequently, these results indicate that the level of interest in the IRAP approach to apprenticeship is considerably lower than originally anticipated, and the Department is concerned that the current number of approved IRAPs is insufficient to demonstrate the model's sustainability in a meaningful manner moving forward.*

*Also as indicated above, through a series of virtual listening sessions held over the past several months, the Department has engaged with leaders from industry, education, workforce, and community organizations to diversify and expand the proven Registered Apprenticeship system. These sessions have sought to solicit input from stakeholders to streamline and modernize the Registered Apprenticeship system (including the incorporation of any lessons learned from the IRAP model).*

*In addition, over the past few years, the Department has significantly reduced the paperwork required to establish a registered apprenticeship program (reducing boilerplate language from 65 pages to 9 pages), created a paperless, interactive online, self-service tool to help potential sponsors quickly and easily build apprenticeship standards, invested in publicly available competency based curriculum that have been validated by industry, and established industry intermediaries in key industries to better engage industry leaders in the expansion of registered apprenticeship.*

*In the past decade alone, the Registered Apprenticeship Program has jump-started the careers of more than 2 million U.S. workers in over a thousand occupations ranging from traditional careers like Electrician, Carpenter and Plumber, and newer occupations such as Software Developer, Wind Turbine Technician, Cybersecurity Analyst, Hotel Manager, Pharmacy Tech and 5G Wireless Technicians. While our nation has faced the unprecedented challenges of the coronavirus pandemic, employers have continued to turn to registered apprenticeship to hire*

*and train new employees, with over 222,000 new apprentices since COVID began in January of last year, across several industries including cybersecurity, healthcare, advanced manufacturing, transportation, energy, agriculture, telecommunications, aerospace, construction, and information technology.*

*Question 5*

What is your message to state governments regarding their occupational licensing requirements? Are there occupational licenses that you would like to see eliminated? If so, please provide a few examples.

*Occupational licensing provides an important assurance of quality and safety, but in some instances can be reformed to allow geographic and economic mobility for military spouses, transitioning service members, unemployed and dislocated workers, people with criminal records, and skilled immigrants with work authorization. The Department has provided extensive technical support to states on occupational licensing reform, through grants to the National Conference of State Legislatures, the Council of State Governments, Colorado, Kentucky, Oklahoma, Nevada, New Hampshire, North Dakota, Vermont, and Pennsylvania. This work supported extensive state reviews of licensing practices, aided by several technical assistance products including a searchable database on occupational licensing requirements<sup>[1]</sup> for 48 occupations across all 50 states that contributes to understanding the variation in occupational licensing burdens across the country, provides states with a basis for comparison and consideration of alternatives, and is also useful in the formation of interstate licensing compacts. Through this technical assistance, the Department supports states in using interstate licensing compacts, updating licensing requirements to reduce those not directly related to the occupation, and easing credentialing of mobile populations like military spouses.*

<sup>[1]</sup> Accessible at <https://www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database.aspx>

*Question 6*

A number of employers in my district reached out to my office expressing concern with the lack of workers they could secure as a result of the extended unemployment benefits. Thankfully, Governor Lee chose to end these payments early so that businesses can meet their workforce needs. Why don't you support similar decisions being made nationwide?

*The Biden Administration Economic Plan is working. Wages are increasing and in the last three months, we have added 1.7 million jobs. While the economy is growing rapidly, we are still down millions of jobs as a result of the pandemic, and still have people who are not fully vaccinated and are concerned for their health. The extra \$300 in unemployment is not hindering people from returning to work. I believe the reasons for people not returning to work have more to do with issues around lack of child care, hybrid school operations requiring parents to be at home, and people taking care of their loved ones. The President's Build Back Better agenda will help ensure that we gain the remaining jobs we lost during the pandemic and*

*grow a stronger economy for all.*

**Representative Julia Letlow (R – LA)**

*Question 1*

As I've traveled the District, I've heard from farmers and business owners about the importance of the Department's H-2A and H-2B program. Seasonal workers are vital in helping farmers process their crops and keep businesses running, which in turn benefits the local economy.

While I've heard of significant delays and inconsistency in processing these visa requests, I've been informed of a recent issue that our farmers and seasonal business owners have been facing. It is my understanding seasonal workers are using waivers to abuse the system, leaving farmers and producers who have followed all the rules in a bind.

For example, a farmer may go through the complex approval process, pay many fees to bring a worker to his or her business, and then the worker decides to abandon the original worksite to go to another company. Now the original employer is out of an employee that they were counting on and left footing the bill for someone else. This practice is fundamentally unfair and is significantly hurting farmers and businesses in my District.

One suggestion to address this issue is to allow employers to report seasonal employees who do not show up to their original worksites to the Department of Labor. Then next year as these employees apply for H-2A or H-2B visas, they will have been flagged as deserting their worksite and not be granted a visa for the upcoming season. I believe denying applications of unreliable seasonal workers will help curb this abuse.

Secretary Walsh, what do you think about this proposal and what can the Department do to curb this abuse of the seasonal worker system?

*The Department understands that employers, such as those utilizing the H-2A temporary agricultural and H-2B temporary non-agricultural programs, need access to a reliable and sufficient workforce that is ready to work when needed to meet their business operations. In administering the H-2A and H-2B programs, the Department processes applications received from employers requesting temporary labor certification, which include information about the job opportunity, wages and benefits, minimum requirements to perform the services or labor, and the number of workers required. Although the Department determines whether the employer has a legitimate need for the number of foreign workers being requested for temporary labor certification, it does not make determinations about specific workers the employer may wish to hire, nor does it approve or issue visas. The Departments of Homeland Security and State collect information concerning foreign workers for purposes of granting admission, changes or extensions of status for those already present in the United States, and issuance of visas under the H-2A and H-2B classifications.*

*Our Department's H-2A and H-2B regulations incentivize employers to timely report the names of workers who abandon work or who are terminated for cause to the Department and the*

*Department of Homeland Security. If such notification is made within two workdays of separation from employment, the employer will be relieved of its obligations for return transportation and subsistence expenses for the worker. The employer will also be relieved of its obligation to offer the worker a total number of work hours equal to at least three-quarters of the workdays advertised for the job. The Department's H-2A abandonment provisions are found at 20 CFR 655.122(n) and the H-2B abandonment provisions are found at 20 CFR 655.20(y). Where time remains on the temporary labor certification, the employer may choose to request approval for different workers to replace those who abandoned employment or were terminated for cause.*

[Whereupon, at 4:44 p.m., the Committee adjourned]

