

**NOMINATIONS OF JENNIFER ABRUZZO  
AND SEEMA NANDA**

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**HEARING**  
OF THE  
**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS**  
**UNITED STATES SENATE**  
**ONE HUNDRED SEVENTEENTH CONGRESS**

FIRST SESSION

ON

EXAMINING THE NOMINATIONS OF JENNIFER ANN ABRUZZO, OF NEW YORK, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD, WHO WAS INTRODUCED BY SENATOR MURRAY, AND SEEMA NANDA, OF VIRGINIA, TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR, WHO WAS INTRODUCED BY SENATOR KAINE

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APRIL 29, 2021

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## NOMINATIONS OF JENNIFER ABRUZZO AND SEEMA NANDA

Thursday, April 29, 2021

U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:03 a.m., in room 106, Dirksen Senate Office Building, Hon. Patty Murray, Chair of the Committee, presiding.

Present: Senators Murray [presiding], Kaine, Hassan, Smith, Rosen, Lujan, Hickenlooper, Burr, Cassidy, Braun, Marshall, and Moran.

### OPENING STATEMENT OF SENATOR MURRAY

The CHAIR. Good morning. The Senate Health, Education, Labor, and Pensions Committee will come to order. Today we are holding a hearing on the nominations of Jennifer Abruzzo to serve as General Counsel of the National Labor Relations Board and Seema Nanda to serve as Solicitor for the Department of Labor. Ranking Member Burr and I will each have an opening statement.

I will introduce Ms. Abruzzo and Senator Kaine will introduce Ms. Nanda. After the witnesses give their testimony, Senators will each have five minutes for a round of questions. I will stay for a second-round if Senators have any remaining questions. And again, before we begin, I will walk through the COVID-19 safety protocols that are in place. We will follow the advice of the Attending Physician and the Sergeant-at-Arms in conducting this hearing. We are grateful to all of our Clerks and everyone who has worked hard to get this set up and help everyone stay safe and healthy.

Committee Members are seated at least six feet apart. Some Senators are participating by video conference. And while we are unable to have the hearing fully open to the public or media for in-person attendance, live video is available on our Committee website at [help.senate.gov](https://help.senate.gov). And if you are in need of accommodations, including closed captioning, you can reach out to the Committee or the Office of Congressional Accessibility Services. We received Ms. Abruzzo's formal nomination on February 22nd, her office of Government Ethics paperwork, including your public financial disclosures and ethics agreement, on February 24th, and her Committee paperwork on March 8th.

We received Ms. Nanda's formal nomination on April 12th and her Office of Government Ethics Paperwork and Committee paperwork on April 19th. Ms. Abruzzo, Ms. Nanda, thank you both for

joining us here today. This pandemic has upended workers' lives and created the most unequal economic crisis in recent history. It is painfully clear our economy is working great for those at the very top, but not for workers who keep our country running or their families and communities. Which is why it is so important that we have strong leaders at the National Labor Relations Board and the Department of Labor like Ms. Abruzzo and Ms. Nanda. Since its founding in 1935, the NLRB has fought to protect working families who are the backbone of our economy. When workers stand together to form a union, when they are fired or unfairly punished because they want to join or form a union, when companies refuse to negotiate fairly with unions fighting for higher wages or safe working conditions, better benefits like pensions, paid family and medical leave, or quality affordable childcare, the NLRB makes sure that union elections are fair and workers voices are heard. It safeguards the workers' rights that have helped build our country's middle class, and that can help us rebuild our Nation stronger and fairer in the wake of this crisis. That should be a bipartisan goal. But the last 15 years have been characterized by an unprecedented Republican obstruction of our NLRB nominees.

In recent years, the previous President's failure to nominate Democratic Board members and the Republican led Senate's decision not to advance nominees has now left the Board with an empty Democratic seat for nearly 3 years and without a single Democratic member from late 2019 until mid 2020. Let's be clear, though, the issue wasn't simply Republicans refusing to advance qualified nominees. It is that they tip the scales of justice against workers and toward big corporations.

Fortunately, we now have a new President, a new Senate, and new nominees to fight on behalf of workers. Ms. Abruzzo and Ms. Nanda both have long records as champions of workers and defenders of workers' rights. Both are familiar with the tasks ahead in the organizations they would help run. Ms. Abruzzo spent nearly 23 years at the NLRB, including her time serving as Acting General Counsel, the role she is nominated to fill now. Ms. Nanda has served in the Department of Labor previously as Deputy Chief of Staff, Deputy Solicitor of Labor, and Chief of Staff. Both have taken on major corporations to protect workers from unfair treatment.

Ms. Abruzzo has won victories against companies for attempting to undermine workers' rights to organize and call for better wages. Ms. Nanda has fought to defend immigrant workers from discrimination and held employers accountable for unfair hiring practices. In short, they are both highly qualified for their positions and deeply committed to working families. I urge my colleagues to show families they are listening and stand with workers by voting to confirm these highly qualified nominees. Of course, confirming these nominees is only the latest step we must take to build a stronger, fairer economy for working families.

We need to also raise the minimum wage and ensure equal pay and workplace harassment and discrimination, and root out the systemic racism, sexism, ableism, and bigotry that unfairly holds back too many workers, ensure every worker has paid family, med-

ical and sick leave, quality, affordable childcare, and a secure retirement plan, and protect every worker's right to join a union.

I will keep pressing to do just that. Finally, I seek unanimous consent to put in the record 22 letters in support of Ms. Abruzzo's nomination and two letters in support of Ms. Nanda's nomination. So, ordered.

[The following information can be found on page 30 in Additional Material]

The CHAIR. I will now recognize Ranking Member Burr for his opening remarks.

#### OPENING STATEMENT OF SENATOR BURR

Senator BURR. Thank you, Madam Chair, and thank you for scheduling this hearing to consider the nominations of Jennifer Abruzzo for General Counsel of the NLRB and Seema Nanda for the Solicitor of Labor. Welcome to both of you. Ms. Abruzzo, I enjoyed our talk in my office several weeks ago. President Biden called for bipartisanship and unity in his inaugural address stating, "This is our historic moment of crisis and challenge, and unity is the path forward." Yet while he read that statement, his staff was engaged in an unprecedented firing of Government officials. That is not good for the Senate, it is not good for our country, and ultimately this behavior isn't good for our Nation's workers.

One of those firings there in the President's call for unity was the removal of the NLRB General Counsel, Peter Robb. This was the first time, the first time a newly elected President has ever fired the NLRB General Counsel, a Senate confirmed position that under the National Labor Relations Act serves a four-year term. Congress set a specific term for the General Counsel to provide integrity and independence in the position. You see, we need both independence and integrity in the General Counsel's Office, which we had in Peter Robb until he was abruptly fired by the White House staff while the President was still on the Capitol balcony calling for unity.

Just as Congress prizes the independence of the FBI Director and the Senate term for that position, we also prize the General Counsel at NLRB. And just as we view the abrupt firing of an FBI Director shocking and unprecedented, we should also view the firing of the General Counsel with a similar concern. President Biden's actions not only harm the independence of the Board and the General Counsel, but this is an aggressive and unnecessary partisan escalation.

For example, President Trump left President Obama's General Counsel, Richard Griffin, in office for 10 months until his term expired. President Obama left George W. Bush's General Counsel, Ronald Leesburg, in office for 18 months until he left on his own accord in June 2010, two months before his term expired. So, while President Biden was reading pretty words about unity, his politically motivated staff escalated the unending partisan war, and as a result, workers and business will suffer. Plain and simple. I would say it ain't so, Joe, but unfortunately we have the nomination before us, so I know it is. Ms. Abruzzo says she wasn't involved in the firing, but that is frankly a little hard to believe be-

cause she was heavily involved in the agency's review team for Labor which covered the NLRB. I can't imagine this firing was a surprise to you.

Ms. Abruzzo's fingerprints are on many of NLRB's most radical decisions, and some of the Administration's most partisan post-election labor moves. If confirmed, she will come in with a dark cloud, quite frankly, over her head. Turning to Seema Nanda. The Solicitor of the Department of Labor should be someone with balance, without ideological agendas. But Ms. Nanda is a highly partisan individual. While she has Department experience, it was under Tom Perez who was himself a radical partisan. Ms. Nanda followed Mr. Perez to the DNC, where she was his top executive in charge of fundraising for the Democratic Party. I find it hard to believe that the American people want labor laws enforced by someone whose job it was to raise money for the Democratic Party. She has used her time at the DNC to make a series of inflammatory, aggressive, and narrow-minded points and retweets about and against Republicans, some on this Committee. She has accused our own Committee Member, Susan Collins, of not caring about survivors of sexual assault, which is quite frankly offensively false.

Susan Collins stands head and shoulders above those slurs against her. Ms. Nanda has accused Republican Senators of wanting to, "break the Government when it was Democrats—break the Government," when it was Democrats who ruthlessly filibustered much needed aid for COVID-19 last year. The list goes on and I won't abuse this Committee by repeating her tweets here. I am sure she will offer some form of apology, but I suspect she simply—she is simply sorry she got caught. But such rhetoric is in sharp contrast to the bipartisanship the President promised as late as last night, and this Committee has shown time and time again. Ms. Nanda seems to view employers not as job creators, but as cartoonish evildoers, set upon disadvantaging and harming the American worker.

I fear her confirmation would lead to a partisan assault against employers, the great majority of whom are eager to comply with their regulatory obligations, and quite frankly, keep their workers safe. Ms. Nanda's zero-sum mentality of American labor management relations that in order for the worker to gain, the employer must suffer, is an out of the mainstream view that has no place in American Government. I welcome this hearing as an opportunity to understand exactly what this Administration and the majority intends to attempt to impose on business and job creators in the coming months and years.

Hopefully instead, they will set aside their partisanship and ideological agendas and instead work together to protect workers, create jobs, grow our economy, and not Government. Since the foundation of the American Federation of Labor, American Union members, the actual workers, not their union bosses, have engaged in a struggle against radical socialists who wish to seize control and repurpose the labor movement away from prioritizing the economy and creating jobs to pushing socialism where Government reigns. The AFL founder, Samuel Gompers, only lost one internal election to the socialist faction. Gompers knew our country needed to thrive and needed thriving businesses for his members to bargain worth



and work for. He had no time for socialists who wanted to hijack the labor movement as a means of destroying the very idea of a free market economy.

The battle for the soul of labor continues today. The labor of American workers drives our free market economy, and their demand for good jobs and fair wages helps our competitive spirit thrive. But some unions have instead become partisan masquerading as work advocates. Workers should be protected. They should have their rights to organize or not to organize, and that should be respected under the law. Bipartisan legislation like the poorly named Pro Act, masquerading as a pro-worker bill, is truly a dagger aimed at the heart of America's free enterprise system.

Our two nominees today have fine qualities for their previous jobs, Ms. Abruzzo as a union lawyer and Ms. Nanda as a Democratic Party activist, but they represent the wrong side of the struggle for our soul of the American worker. It is unclear to me that they will ever enjoy the confidence of anyone outside of the biased, antibusiness bubbles that fester on the fringes of the left, further undermining public confidence in the independent nature of the positions they are here in hopes to hold. I thank the Chair. I yield back.

The CHAIR. Thank you. We will now introduce today's witnesses. Jennifer Abruzzo is a proven public servant with over two decades of experience fighting for workers. She is uniquely qualified for the position of NLRB General Counsel, and she has spent the majority of her career at the Board and shown herself to be a talented Attorney in each of her roles there. Over her 23 years with the NLRB, Ms. Abruzzo has served as a Field Attorney, a Supervisory Field Attorney, Deputy Regional Attorney, Deputy General Counsel, and as Acting General Counsel, the role which she is now nominated to fill.

In the course of that work, she has established herself time and time again as a dedicated public servant by protecting employees from unfair treatment and defending workers' rights to organize, form or join a union, and fight for better working conditions, benefits, and wages. She has worked closely with past NLRB General Counsels, both Democratic and Republican, to help coordinate the Board's national outreach program and oversee operations in regional offices worldwide, and in her capacity as Acting General Counsel and Deputy General Counsel, she served as a key adviser and decision maker on all legal, operational, administrative, and financial matters. Ms. Abruzzo left the NLRB in 2017 but hasn't left the fight for workers' rights. She is currently Special Counsel for Strategic Initiatives at the Communication Workers of America, where she works to train other labor attorneys, assist with litigation and legislative initiatives, and serve as the union's designated point person on all NLRB issues.

Ms. Abruzzo's resume leaves no doubt she is a capable leader, a champion for working families, and an excellent choice to serve as NLRB General Counsel. She will work vigorously to enforce the National Labor Relations Act, which is designed to protect our Nation's workers against unfair labor practices and guarantees the right to organize and seek better wages and safer working condi-

tions through collective bargaining. Making sure workers can freely exercise these rights is important to making sure that we can rebuild a stronger, fairer economy. And of course, in addition to being an accomplished leader, Ms. Abruzzo and her husband Bill are also proud parents to their son, Adam, who is a pulmonary critical care doctor, and grandparents to two grandsons, Henry and Dean.

It is a pleasure to have Bill and Ms. Abruzzo's mother, Sandy, joining us today at this hearing as well. Ms. Abruzzo, we are glad you are here with us today. We look forward to hearing from you and working with you in the future. And thank you. I will now turn it over to Senator Kaine to introduce Ms. Nanda.

Senator KAINE. Thank you, Chair and Ranking Member. I am pleased to be here today to introduce to the Committee and recommend my Virginia constituent, Seema Nanda, for the position of Solicitor at the Department of Labor. And I can't resist maybe beginning with a little bit of a response to my friend and colleague, Senator Burr. Seema Nanda is a Democrat, and she did work at the Democratic National Committee, and she is nominated by Democratic President. I served as chair of the Democratic National Committee.

Now, if somebody introduced me and they just focused on that, they wouldn't tell you the full story of who Tim Kaine is, because I was a missionary, and I was a civil rights lawyer, and I was the Managing Director of a private law firm, and I was a nonpartisan Mayor, and City Council member, and I was a Lieutenant Governor, and Governor. And yes, for two years, I was the Chairman of the Democratic National Committee before coming to the Senate. So, what I want to do is what Paul Harvey used to say on the radio, I want to give you the rest of the story.

Seema Nanda graduated from Boston—Brown University, then B.C. Law School. She started her career as an associate in private practice doing labor law work for employers. She then moved and was honored to accept a position at the National Labor Relations Board, where she served as a career Supervising Attorney in the Department of Advice for ten years, nine of which, nine of those ten years, was under Republican administrations and Republican majority leadership of the NLRB.

She then moved to the U.S. Department of Justice, where she started as a Senior Trial Attorney and later became Deputy Special Counsel for the Civil Rights Division, Office of the Special Counsel for Immigration Related Unfair Employment Practices, and she worked there with employers who were accused of discrimination. From 2013 to 2017, she worked with, again at the U.S. Department of Labor as the Deputy Chief of Staff, then the Deputy Solicitor General, and then eventually the Chief of Staff, and she focused on immigration, workforce development, and internal management issues within the NLRB.

Her knowledge of the intricacies of the Department of Labor, because of these two significant long stints there under both Republican and Democratic leadership, makes her uniquely positioned to take on the role of the Department of Labor's top attorney. After the Obama administration, Seema transitioned to the nonprofit Leadership Conference on Civil and Human Rights, where she served as Executive Vice President and Chief Operating Officer

overseeing the organization's day to day operations. And then in 2018, she was tapped to serve as the CEO of the Democratic National Committee. I tapped somebody to be the CEO of the Democratic National Committee, and I don't—I wasn't there when Seema was there, but I would say the CEO of the DNC when I was there is an awful lot of internal personnel, did an awful lot of convention planning, did an awful lot of handholding of state party chairs and responding to requests from Democratic officeholders who called the DNC for advice. It was not primarily a fundraising job.

Seema currently serves as Harvard Law—at Harvard Law School's Labor and Work Life Program. So, she has been in private practice and she has been in public service under both Democratic and Republican administrations, both in the Department of Justice and in the NLRB. She is nominated for the Solicitor position. She has already served as the Deputy Solicitor. Her background shows a clear commitment to improving employment practices in the country and working hand in hand both with business leaders and workers. And I am confident that if confirmed, she will carry out her important responsibilities in a fair, equitable, and energetic manner. And that is why I am very happy to be here and to introduce her.

The CHAIR. Thank you, Senator Kaine. Ms. Nanda, glad to have you with us today, and I want to welcome your husband, Vincent, and your son Leonardo. And I know your son Roman is watching today's hearing as well I understand. With that, Ms. Abruzzo, we will begin with your testimony.

**STATEMENT OF JENNIFER ABRUZZO TO SERVE AS GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD, WASHINGTON, DC**

Ms. ABRUZZO. Chair Murray, Ranking Member Burr, and Members of the Committee, thank you for inviting me here today. I am honored to appear before you as the nominee for General Counsel of the National Labor Relations Board and grateful for the time that you took meeting with me. I would be remiss if I did not thank my family for all their love, support, and encouragement throughout the years. My husband Bill and my mom Sandy, both of whom are with me today, my dad, George Burgess, my sister Courtney, and brothers Chris and Matt, my second mother, Mary Damiani, who recently passed away.

Last but certainly not least, my son, Adam Schertz, who is a pulmonary critical care doctor at Wake Forest Baptist Hospital, and his talented wife, Rena, who bestowed upon me two of life's greatest gifts, my grandsons, Henry and Dean. I also wish to express my gratitude to President Biden and Vice President Harris for entrusting me with this nomination. If I am fortunate enough to be confirmed, I will work tirelessly to protect the rights of workers to freely associate and act collectively to improve their wages and working conditions if they so choose.

I will promote productive relationships so that businesses can flourish, just as was contemplated when the National Labor Relations Act was enacted during the Great Depression. Strong enforcement of the statute helps level the playing field and build a better

economy for workers, families, communities, and our great country. I know firsthand the difference effectuating the mission of the NLRB can make in the lives of so many. I grew up in a working-class neighborhood in Queens, New York, as the oldest child of four. Both of my parents, an electrical engineer at a utility company and an X-ray technician at a hospital, were union members who instilled in me a tremendous work ethic and a belief that there is strength in numbers when trying to garner decent wages, safe and productive workplaces, better health and retirement benefits, and dignity and respect.

I spent most of my professional career about 23 years as a career public servant at the National Labor Relations Board, working in various capacities in the field and headquarters, culminating with my service as Acting General Counsel and Deputy General Counsel. During that time, I partnered with colleagues at other agencies to educate workers, labor organizations, and businesses about statutory rights and to promote better enforcement of labor and employment laws and help prevent exploitation of vulnerable workers. And on a daily basis, I collaborated with talented Board agents of all ages, backgrounds, and political parties.

I can unequivocally attest to the fact that the NLRB is filled with dedicated public servants who are committed to enforcing the primary labor law in this country. I am a direct beneficiary of my parent's union jobs and understand the power of the right to organize and collectively bargain. Workers are able to bring about opportunities to change their lives by exercising this right. I was fortunate enough to see this firsthand while working at the NLRB. One matter, which has stayed with me for over 15 years, occurred in Miami. I was the attorney of record on a case where a few employees were fired during an organizing drive and other employees protested in response, causing many of them to be threatened, retaliated against, and permanently replaced.

The courtroom, where I was seeking an injunction to force the employer to reinstate the workers and to cease engaging in these acts was packed. After my long oral argument, the judge advised he would issue a decision within a few days. So, I packed up, left the courtroom, and went to the elevator banks for the trip down to the lobby. But I couldn't even get on the elevator as I was surrounded by workers who hugged me, patted me on the back or shook my hand. Many of them were not English speakers and could not follow much of what I said during the presentation, but they thanked me anyway. Why? Because I defended them and their rights under the NLRB that gave them a voice and power.

If confirmed as General Counsel, I will dedicate myself to enforcing the statute to the fullest degree possible and will lead by promoting a greater understanding for an interest in issues facing workers, embracing more productive labor management partnerships, engaging with workers' advocates, employers, and other stakeholders, collaborating with colleagues throughout the Government, and enabling all of the talented Board agents at the NLRB to effectively enforce the statutory rights of workers in a neutral manner by giving full opportunity for employers and unions to have their positions heard.

My past three years at Communications Workers of America have deepened my belief that strong enforcement of the NLRB is crucial for workers and their advocates to advance improvements in workplace conditions, particularly during these challenging times. Too many workers have had to choose between their safety and their livelihood. Now, more than ever, we must ensure that working families who have built this great country are empowered and enjoy a better life, a life where workplace wages, conditions, and benefits continue to improve, where work, life balance is sustainable, where diversity is embraced, and all are treated with dignity and respect, and their workplace protection laws are effectively enforced.

Committed people acting together can make a difference, and I commit to you that if I am fortunate enough to be confirmed, I will do all that I can to build a better future for our workers, our businesses, our communities, and our Nation. Thank you, and I look forward to your questions.

[The prepared statement of Ms. Abruzzo follows:]

PREPARED STATEMENT OF JENNIFER ABRUZZO

Chair Murray, Ranking Member Burr, and Members of the Committee, thank you for inviting me here today. I am honored to appear before you as the nominee for General Counsel of the National Labor Relations Board (NLRB) and grateful for the time that you took meeting with me.

I would be remiss if I did not thank my family for all their love, support and encouragement throughout the years—my husband Bill, my parents George and Sandy Burgess, my sister Courtney and brothers Chris and Matt, my second mother Mary Damiani, who recently passed away, and last, but certainly not least, my son Adam Schertz, who is a pulmonary critical care doctor at Wake Forest Baptist Hospital, and his talented wife Brenna, who bestowed upon me two of life's greatest gifts—my grandsons Henry and Dean.

I also wish to express my gratitude to President Biden and Vice President Harris for entrusting me with this nomination. If confirmed, I will work tirelessly to protect the rights of workers to freely associate and act collectively to improve their wages and working conditions if they so choose. And, I will promote productive relationships so that businesses can flourish. Just as was contemplated when the National Labor Relations Act (NLRA or statute) was enacted during the Great Depression, strong enforcement of the statute helps level the playing field and build a better economy for workers, families, communities, and our great country.

I know first hand the difference effectuating the mission of the NLRB can make in the lives of so many. I grew up in a working class neighborhood in Queens, New York as the oldest child of four. Both of my parents, an electrical engineer at a utility company and a X-ray technician at a hospital, were union members, who instilled in me a tremendous work ethic and a belief that there is strength in numbers when trying to garner decent wages, safe and productive workplaces, better health and retirement benefits, and dignity and respect.

I spent most of my professional career—about 23 years—as a career public servant at the NLRB working in various capacities in the field and headquarters, culminating with my service as Acting General Counsel and Deputy General Counsel. During that time, I partnered with colleagues at other agencies to educate workers, labor organizations and businesses about statutory rights and to promote better enforcement of labor and employment laws and help prevent exploitation of vulnerable workers. And, on a daily basis, I collaborated with board agents of all ages, backgrounds and political parties. I can unequivocally attest to the fact that the NLRB is filled with dedicated public servants who are committed to enforcing the primary labor law in this country.

I am a direct beneficiary of my parents' union jobs and understand the power of the right to organize and collectively bargain. Workers are able to bring about opportunities to change their lives by exercising this right. I was fortunate enough to see this first hand while working at the NLRB. One matter, which has stayed with me for over 15 years, occurred in Miami. I was the attorney of record on a case where a few employees were fired during an organizing drive and other employees

protested in response causing many of them to be threatened, retaliated against, and permanently replaced. The courtroom where I was seeking an injunction to force the employer to reinstate the workers and to cease engaging in these acts was packed. After my long oral argument, the judge advised that he would issue a decision within a few days. So, I packed up, left the courtroom and went to the elevator banks for the trip down to the lobby. But I couldn't even get on the elevator as I was surrounded by workers who hugged me, patted me on the back or shook my hand. Many of them were not English speakers and could not follow much of what I said during my presentation, but they thanked me anyway—why—because I defended them and their rights under the NLRA—that gave them a voice and power.

If confirmed as General Counsel, I will dedicate myself to enforcing the statute to the fullest degree possible and will lead by: promoting a greater understanding for and interest in issues facing workers; embracing more productive labor-management partnerships; engaging with workers, advocates, employers and other stakeholders; collaborating with colleagues throughout the government; and enabling all board agents to effectively enforce statutory rights in a neutral manner by giving full opportunity for employers and unions to have their positions heard.

My past three years at Communications Workers of America, AFL-CIO have deepened my belief that strong enforcement of the NLRA is crucial for workers and their advocates to advance improvements in workplace conditions, particularly during these challenging times. Too many workers have had to choose between their safety and their livelihood. Now more than ever, we must ensure that working families, who have built this great country, are empowered and enjoy a better life—a life where workplace wages, conditions and benefits continue to improve, where work-life balance is sustainable, where diversity is embraced and all are treated with dignity and respect, and where workplace protection laws are effectively enforced.

Committed people acting together can make a difference. I commit to you that, if confirmed, I will do all that I can to build a better future for our workers, our businesses, our communities and our Nation.

Thank you and I look forward to your questions.

The CHAIR. Thank you. We will turn to Ms. Nanda for her testimony.

**STATEMENT OF SEEMA NANDA TO SERVE AS SOLICITOR FOR  
THE DEPARTMENT OF LABOR, ARLINGTON, VA**

Ms. NANDA. Chair Murray, Ranking Member Burr, and Members of the Committee, I am honored to appear before you today as the nominee for the Solicitor of Labor. Thank you for welcoming me here today, and to you and your staff for meeting with me over the last several days conversations. I appreciate it very much. If confirmed, I look forward to serving the American people and helping the Department of Labor to fill its critical mission of promoting the welfare of America's workers, job seekers, and retirees during these challenging times.

I want to thank President Biden and Vice President Harris for nominating me to this position and Secretary Walsh for recommending me. I also want to thank my family, my husband, Vincent Balbo, and my children, Leonardo and Roman, for their endless love and support. My high schoolers are missing a little bit of remote learning today, and I am glad they are able to learn about the Senate's advice and consent function up close. I also want to thank my parents. As young children, my parents were forced to leave their homes behind during the partition of India and Pakistan. They worked hard with dreams, like so many other immigrants, to come to the United States for freedom and opportunity.

I am grateful for all that they in this country have provided to me and honored to be the first woman of color nominated for the

position of Solicitor of Labor. I have spent the vast majority of my career in public service. I started my career in private practice representing management and labor and employment matters in Seattle before going to the National Labor Relations Board. While at the NLRB, I worked in Democratic and Republican administrations, serving under four different General Counsels, three Republican, one Democratic. I spent nearly 10 years at the NLRB, always seeking to come to the right decision, one based on a careful review of case law precedent and the specific circumstances of the case. My work often involves significant interaction with the General Counsel's Office, and I always appreciated these collaborative interactions with colleagues, both Republican and Democratic, including General Counsels Leonard Paige, Ronald Weisberg, John Higgins, and the late Arthur Rosenfeld.

I left the NLRB to join the now named Office of Employee and Immigrant Rights in the Department of Justice's Civil Rights Division. I served as a career head of that office, helping to revitalize the office's litigation to deepen across agency work with ICE and USCIS, and to run an outreach program to employers in affected communities. We had a small office with limited resources, and I learned the importance of being strategic with enforcement and engaging in meaningful employer outreach. I had the honor of serving in various roles at the U.S. Department of Labor, including as Deputy Solicitor and Deputy Chief of Staff of the Department.

The breadth of work of the DOL, from the roughly 180 laws it enforces, the workforce training and unemployment insurance programs it administers, to data and research are all critical to the well-being of America's workers. I am particularly proud of our work on employee engagement, where DOL became the most improved Federal agency in the Employee Viewpoint survey two years in a row. People are the most valuable asset at the DOL, and if confirmed, I plan on listening and working collaboratively. In the more than 20 years of my legal career in labor, employment, and civil rights work, I have learned that most employers want to do the right thing, and clear guidance and compliance assistance are critical.

But at the same time, wrongful termination, wage theft, discrimination, and employment retaliation, and denial of employment are all devastating to workers, particularly the most vulnerable workers. The erosion of labor standards hurts all workers and our economy, as well as the majority of employers that are complying with the law. I have seen the role of Solicitor up close, and I believe that my experiences that dwell in Government as well as my years outside of Government have prepared me for this role. I understand that as the Chief Legal Adviser to the Department, my role as Solicitor will sometimes be to tell my supervisors that they can't do things. And that is a role I am willing to do, and I have done before. In sum, I am humbled by this nomination.

If confirmed, I would be excited to return to public service. I understand the importance of proceeding in a bipartisan manner and working with Members of Congress and Members of the Committee to find common ground wherever possible. Thank you, and I look forward to your questions.

[The prepared statement of Ms. Nanda follows:]

## PREPARED STATEMENT OF SEEMA NANDA

Chair Murray, Ranking Member Burr, and Members of the Committee, I'm honored to appear before you today as the nominee for the Solicitor of Labor. Thank you for welcoming me here today, and for meeting with me over the last several days. I've appreciated our conversations very much. If confirmed, I look forward to serving the American people, and helping the Department of Labor fulfill its critical mission of promoting the welfare of American workers, job seekers, and retirees during these challenging times for America's workers and families.

I want to thank President Biden and Vice President Harris for nominating me to this position, and Secretary Walsh for recommending me. I also want to thank my family, my husband, Vincent Falvo, and my children Leonardo and Roman, who are missing some remote high schooling to watch today. I am glad they are able to learn about the Senate's advice and consent function up close.

I want to also thank my parents. As young children, my parents were forced to leave their homes behind during the partition of India and Pakistan. They worked hard in India, with dreams, like so many other immigrants, to come to the United States for freedom and opportunity. I'm grateful for all that they, and this country, have provided to me, and honored to be the first woman of color nominated for the position of Solicitor of Labor.

I have spent the vast majority of my career in public service. I started my career in private practice representing management in labor and employment matters in Seattle before going to the National Labor Relations Board. While at the NLRB, I worked in Democratic and Republican Administrations, serving under four different General Counsels, three Republican, one Democrat. I spent nearly ten years at the NLRB, always seeking to come to the right decision, one based on a careful review of case law, precedent, and the specific circumstances of the case. My work often involved significant interaction with the General Counsel's office. I appreciated these collaborative interactions with colleagues, both Republican and Democratic, including General Counsels Leonard Page, Ronald Meisburg, John Higgins, the late Arthur Rosenfeld.

I left the NLRB to join the now-named Office of Employee and Immigrant Rights at the Department of Justice's Civil Rights Division. I served as the career head of that office, helping to revitalize the office's litigation, to deepen our cross-agency work with ICE and USCIS, which had related missions, and to run an outreach program to employers and affected communities. We were a small office with limited resources, and I learned the importance of being strategic with enforcement and engaging in employer outreach.

I had the honor of serving in various roles at the U.S. Department of Labor, including as Deputy Solicitor and Chief of Staff of the Department. The breadth of work of the DOL—from the roughly 180 laws it enforces, the workforce training programs and unemployment insurance programs it administers, to data and research—are critical to the well-being of America's workers, job seekers, and retirees. I'm proudest of our work on employee engagement, where DOL became the most improved Federal agency in the Employee Viewpoint Survey two years in a row. People are the most valuable asset at the DOL and at the Solicitor's office, and if confirmed, I plan on listening and working collaboratively.

In my more than 20 years of my legal career in labor, employment, and civil rights work, I have learned that most employers want to do the right thing, and clear guidance and compliance assistance are critical. But at the same time, wrongful termination, wage theft, discrimination in employment, retaliation, or denial of employment, is devastating to workers, particularly the most vulnerable workers. The erosion of labor standards hurts all workers and our economy, as well as the majority of employers that are complying with the law.

I've seen the role of Solicitor up close, and I believe that my experiences at DOL, in government, as well as my years outside of government, have prepared me for the role. I understand that as the chief legal advisor to the Department, my role as Solicitor will sometimes be to tell my superiors that they can't do things—that it's not legally defensible. That's something I've done before and am prepared to do.

I believe that decision-making is almost always better when it involves consideration of multiple viewpoints. If confirmed, I commit to listening and learning from a diversity of perspectives as I work to enforce the laws fully and fairly. I also understand the importance of working in a bipartisan manner and working with Congress and Members of this Committee to find common ground whenever possible.

I'm truly humbled by this nomination. If confirmed, I would be excited to return to public service and to work with the hundreds of highly competent career attor-



neys who are working every day to enforce the agency's mission and fairly consider the complex equities at stake in making decisions. This collaborative work I have engaged in throughout my time in government has been the highlight of my career, and I would be honored to have the opportunity to serve again.

Thank you, and I look forward to your questions.

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The CHAIR. Thank you very much to both of you. We will now begin a round of five-minute questions. I ask my colleagues to please keep track of your clock and stay within those five minutes. I will remind everybody we have a series of votes starting at 11:30 a.m., so I will cut people off at five minutes.

The Solicitor plays a crucial role in ensuring the Department of Labor fulfills its mission of promoting the safety and welfare of all workers and securing their benefits, particularly through the vigorous enforcement of the myriad of laws that are entrusted to it. So, Ms. Nanda, if you are confirmed as Solicitor, how will you ensure the Department is most effectively using enforcement to protect workers and their rights?

Ms. NANDA. Thank you for that question, Chair Murray. The Solicitor's Office plays a variety of important roles at the Department in enforcing all of the laws, 180 laws. In terms of how I would ensure that we have effective enforcement, I would certainly want to talk to the people who are at the Department, the career attorneys who have been working every day.

I would want to talk to Secretary Walsh and hear more about his priorities. A couple of things that will guide me in any sort of enforcement work. I think we need to focus on willful violators of the law and as shown by often repeat violators of the law. I would certainly want to focus on the most vulnerable workers, often people of color, often people who don't have any other recourse other than the Labor Department. And I would certainly want to focus on retaliation, making sure that people feel comfortable coming forward to the Department of Labor and participating in those investigations.

In terms of substantive priorities, again, I would certainly want to talk to folks who are there and do a real deep dive. But wage theft is a billions dollar problem every year. Workers who can't afford it are losing so much. So that would be a focus, as well as making sure that we are ensuring the health and safety of our workers, particularly right now with the challenges we are facing.

The CHAIR. Okay, thank you very much. The National Labor Relations Act gives workers the right to join a union to collectively bargain for fair wages and benefits and safe working conditions. The Office of the General Counsel has the unique responsibility to enforce those rights, as workers cannot take their cases to court and must rely on the NLRB.

Over the past few decades, we have seen unprecedented attacks on workers' rights and a shocking decline in workers bargaining power. This has meant that most workers are left behind without the ability to advocate collectively for their wages and benefits. As billionaires and corporations get richer, it is more important than ever that the NLRB stand up for workers and their right to organize. Ms. Abruzzo, you spent your career, as you talked about, fighting for workers' rights, including 23 years at the NLRB. How

will your past experience inform your approach to the job, if you are confirmed?

Ms. ABRUZZO. Thank you, Chair Murray, and thank you for that warm introduction and your leadership on workers' issues and women's issues. So, as you mentioned, I spent 23 years there, at the NLRB, and took my responsibilities as a neutral very seriously. If I am fortunate enough to be confirmed, I would love to get back to my NLRB family and vigorously enforce the statute and protect the rights of workers to act collectively to improve their wages and working conditions if they so choose.

I would, if I am fortunate enough to be confirmed, promote more inter-agency partnerships for better labor and employment enforcement of workplace protection laws. And I would certainly want to engage more with stakeholders to learn what issues there are. I enjoy good working relationships with labor and management practitioners, and I would want to foster that. I also would want to create a much more robust outreach program at the NLRB so that there is a better understanding of our rights and responsibilities under the statute.

Particularly, I would want to engage with vulnerable workers and underserved populations as well as small businesses and worker advocates, so everyone understands the statutory rights. And finally, as Ms. Nanda said, of course, to collaborate with the career staff at the agency. They provided me with very sage advice when I was Acting General Counsel and Deputy General Counsel. And I would certainly want to provide them with the resources and tools that they need to ensure that the mission is fully effectuated.

The CHAIR. Thank you very much. Senator Burr.

Senator BURR. Thank you, Madam Chair. Again, to both of our nominees, welcome. Ms. Abruzzo, as part of President Biden's transition team, did you have anything to do with the firing of Peter Robb?

Ms. ABRUZZO. Thank you for that question, Ranking Member Burr, and I enjoyed our conversation about our families in Winston-Salem. So, you are right, I was asked to volunteer on the Department of Labor Agency review team during the transition, and I was happy to take on that role and help the impending administration. There were many other teams, and I was one member of about 25, as the name suggests. We were tasked with reviewing the current—

Senator BURR. The question was very simple. Did you have anything to do with the firing of Peter Robb?

Ms. ABRUZZO. Again, I had no involvement with the President's decision making with regard to—

Senator BURR. In my office you told me you did not work on anything related to the NLRB during your time on the transition team. Is that accurate?

Ms. ABRUZZO. Thank you for that, Senator. I believe what I said to you was that I was on the team and that I shared the concerns of internal and external stakeholders when they advised us of their concerns regarding operational management under General Counsel Robb's tenure.

Senator BURR. Well, let me get you to explain an email series to me. And this email shows that the White House staff, Carina Cor-

tez, put you, among others, including Ms. Nanda, who is sitting next to you in the NLRB, Acting General Counsel, Peter Ohr, in touch.

As a matter of fact, the White House, Karina Cortez, wrote to Peter, “just circling back on your request, I found out that I cannot share files created during the transition period, but I can have all the team that helped create the NLRB documents brief you verbally, if that is Okay.” The response, the same day, “I understand an opportunity to talk to the team would be very helpful. I would appreciate you connecting me with them.” Ms. Cortez writes back, “good morning, Peter. I want to introduce Ms. Nanda, Lin Rheinhardt, Jennifer Abruzzo, and I believe you might know some of them already. As I indicated earlier, the outstanding team put together some very helpful NLRB background materials during the transition agency’s review team process. They are happy to participate in a video conference with you and share the learnings from their work.” Peter Ohr responds back, “thank you for the introduction,” blah, blah, blah. So, you led me to believe that you had very little involvement in documents dealing with the NLRB.

This suggests that everything that revolves around the path forward for the NLRB was done out of working group that both of you were on and that you were asked to come in and share that with the Acting General Counsel. And that was as of February 2nd. So, what was your involvement with NLRB documents?

Ms. ABRUZZO. Thank you, Senator. As I was saying, we were part of a team that collaborated after we received information and engaged with internal and external stakeholders. During that collaborative process, we reviewed critical information that we received from stakeholders regarding their concerns over General Counsel Robb’s operational management that included a lapse in appropriated funds and staff reductions and decline in labor management and staff morale. And I, along with others, felt that those concerns, as well as the stakeholders’ recommendations, that consideration for the removal of General Counsel Robb, be elevated. I believed, as well as some other members—

Senator BURR. You were part of it?

Ms. ABRUZZO [continuing]. Thought that—

Senator BURR. You made a recommendation that, I am not trying to put words in your mouth, but you just said you made a recommendation based upon performance of his work that he should be replaced. Now let me ask you this. And these are yes or no, has any President ever fired an NLRB General Counsel?

Ms. ABRUZZO. As I understand it, no. The last time—

Senator BURR. Is a statutory term for General Counsel under the National Labor Relations Act 4 years?

Ms. ABRUZZO. Yes, that is what the statute says.

Senator BURR. You think Congress should update the law, so the General Counsel’s term expires with the President who has nominated them?

Ms. ABRUZZO. I can’t really speak to what the Congress should or shouldn’t do. They can change the legislation if they so choose.

Senator BURR. Well—Madam Chair, I realize my time has expired. You won’t comment on what Congress should do? Congress set a four-year term for the General Counsel. Your recommenda-

tion to the current administration was, even though there was time left on their term, you need to fire them. You are now here to take that job. I thank the Chair.

The CHAIR. Senator Kaine.

Senator KAINE. Thank you, Madam Chair and Ranking Member Burr. Ms. Nanda, I want to go back to your opening testimony and just read for the record a paragraph and then ask you some questions about it. "In my more than 20 years of my legal career in labor, employment, civil rights work, I have learned that most employers want to do the right thing and clear guidance and compliance assistance are critical. But at the same time, wrongful termination, wage theft, discrimination and employment, retaliation or denial of employment is devastating to workers, particularly the most vulnerable workers.

The erosion of labor standards hurts all workers in our economy, as well as the majority of employers that are complying with the law." I come out of a labor household and that my dad owned and ran a very small ironworking shop that was ironworker organized. So, he was management, but he had a very good relationship with the iron workers that were his employees. And my brothers and I and my mom all worked in this business and it was five employees in a tough year and eight employees in a good year, very, very small.

My dad was on—was selected, though the business was so tiny by the iron workers, to be one of three employer reps on the National Pension Fund. There were three employer reps and three employee reps because they viewed him as a management guy who got at the labor and management should work together. I deeply believe in that first point you make in that paragraph that most employers want to do the right thing. I deeply believe that when employers don't, when they violate national, NLRA, other state labor laws, they hurt not only workers, but when people, when employers violate the law, they also hurt other employers because the employers like my dad, who did the right thing, if there are others who are not doing the right thing and there is no enforcement, there is no compliance against them, it ends up creating an uneven playing field. It is the same phenomenon we see in other areas of Government.

If the IRS doesn't audit tax cheats, then people who are doing the right thing and paying their taxes, they get hurt for following the rules when others violate them. So, I know there can sometimes be an attitude that rigorous enforcement of labor laws, for example, are sort of anti-employer. I look at it exactly the opposite, since most employers are trying to do the right thing. If you don't vigorously enforce against those who are violating labor laws, you end up hurting the very people who are trying to do it right. Am I looking at this wrong?

Ms. NANDA. Thank you, Senator Kaine. Thank you also for your warm introduction of me. I think you have it exactly right. I think that poor labor standards hurt the employers, vast majority, as I said, doing the right thing all the time.

One thing I would also note is that resources at Federal enforcement agencies are always scarce. And if you don't have compliance and education as a major part of your mission, you are not going

to do what you are really trying to do, because your overall goal is to protect workers, so they don't have to go to the Department of Labor or their state and local agency or the NLRB to have their rights in force, that employers are complying with the law because we know it takes so much time and energy, and workers are often in the least position to be able to afford these things.

I absolutely agree with you. I think there is interesting ways to work productively with employers on helping with those initiatives as well. So, I agree with you 100 percent.

Senator KAINE. Let me just follow-up on this. So, the compliance activities that the Solicitor engages in are critically important, but also the educational instructional activities. It is one thing if you are a massive employer that has a big General Counsel's Office, and you have Labor Council and things like that. You have some tools to maybe dig into and understand what laws are. But many, many employers, the backbone of the American economy are small employers. Describe work that you have done in your earlier capacities at NLRB in the sort of guidance and instruction side, particularly for the backbone of the American economy, small employers, to help them better understand labor laws so that they can—those that want to do the right thing can more easily do so.

Ms. NANDA. Yes, that is a really great point. I think about my time in private practice, and the labor and employment scheme is complex, and it is very hard. It can be very difficult on small employers. And I think Government agencies really working on education and compliance is so important. I will talk about one example of my experience at the Civil Rights Division. As a very small Office enforcing a Federal discrimination law, we thought that it was really important to talk to as many employers as possible.

We formed a partnership with ICE, Immigration and Customs Enforcement, that was doing the enforcement on the other side for employers about not employing undocumented workers to actually feed into their compliance programs for small employers, large employers, on how they can comply with the anti-discrimination provisions at the same time that they are ensuring these compliance with ICE rules as well.

Senator KAINE. Thank you. I am over my time, but I appreciate that answer. Thank you, Madam Chair.

The CHAIR. Thank you. Senator Cassidy. Senator Cassidy, we can't hear you. I am not sure if it is on your end or ours.

Senator BURR. Give us a second, Bill.

The CHAIR. It is on your side, Senator Cassidy. Can you unmute yourself?

Senator CASSIDY. I am unmuted.

Senator BURR. There you go. You are good.

Senator CASSIDY. Good. Thank you. I am good. No one says that, Mr. Burr. Thank you. Okay, Ms. Abruzzo, thank you both for your desire to serve our country. And although we disagree politically, I certainly respect that. I thank you for that. But again Ms. Abruzzo, you left your job at the National Labor Relations Board to take a job with the Communications Workers of America.

It happens to be a member of the AFL-CIO Labor Federation. And during your tenure, you participated in at least one case that came before the Board with an unfair labor charge. So, to avoid a

conflict of interest, would you commit to recuse yourself from all issues involving the CWA and, or the AFL–CIO, including the CWA district, locals and affiliate local unions, etc.? I think where I am going with that.

Ms. ABRUZZO. Thank you for that question, Senator Cassidy. I have already been in touch with the agencies, designated ethics agency official about potential conflicts of interest over particular matters, and I will continue to engage with them and be guided by their recommendations, as well as the recommendations of the Office of Government Ethics, and certainly will adhere to the ethics pledge.

Senator CASSIDY. Okay. Louisiana is a right to work state. Some folks on the other side of the aisle want to supersede state laws along the lines of right to work. The Pro Act has passed the House. Again, would supersede state right to work laws. Would you use your position—let me just ask, should a state have the right to come up with right to work laws or should the Federal Government have the right to supersede?

Ms. ABRUZZO. Thank you for that question, Senator. I can only enforce the statute that is on the books, that is the National Labor Relations Act, and that provides for states to enact right to work laws. And so, I will enforce that statute. If the Senate passes the Pro Act or some other labor law reform legislation that precludes state right to work laws and requires fair share agreements for collective bargaining, grievance adjustment, and contract administration, then I would enforce that statute. But for right now, the NLRB is what is on the books, and that is what I plan on enforcing.

Senator CASSIDY. Sounds great. Ms. Nanda, your prior work experience as CEO of the DNC and some of the things that I am told you said about Republicans on social media, it is obviously a very political and partisan record right there. Just if you were in my shoes, imagine yourself, it may be a terrible dream for you—imagine that you are a Republican. What would reassure me that voting to confirm the person with your track record on those two regards is a wise decision that you would be neutral and not partisan when it seems as if you have been intensely partisan in the past?

Ms. NANDA. Thank you, Senator. I appreciate you raising this question. I will start by saying that I spent a little under two years in a partisan position in my more than 25-year career, professional career. I understand that the role of the Solicitor of Labor is strictly nonpartisan. And if I have the privilege of being confirmed by this Committee, I plan on performing that role in a strictly nonpartisan manner, enforcing the laws fairly and fully, and listening to all stakeholders. To the extent that I have said things that were offensive to anyone in regards to a partisan manner, I certainly apologize for that. I have worked throughout my career to treat—

Senator CASSIDY. But let me ask you Ms. Nanda, do you disown it? It is one thing to apologize, it is another to disown. And as you know, this Administration, at least its rhetoric is about unity. But when someone is nominated who seems to harbor animus, that, of course, is concerning to those who are the target of the animus, and particularly if the person has a position such as this. How would you respond to that?

Ms. NANDA. I think I would say first, I don't think I harbor animus toward those I may disagree with, but what I will say is over the last four years, I think the rhetoric was at times harsh in this country. And I certainly am sorry to the extent I was caught up in that. I think if one looks at my career and the people I have worked with, the people I may have agreed with and disagreed with, and speaks to those people, they will see that I am someone who is always listening and always willing to bring people together.

I think I understand the complexities of being in a role like the Solicitor, where you do have to weigh the complex interests at stake. I have been on every side of the equation. I have been an advocate, most of my career has been as a Government Attorney, and I have been—done management work. And I understand those complexities and I understand this role.

Senator CASSIDY. Thank you. I yield.

The CHAIR. Senator Lujan.

Senator LUJAN. Chair Murray, Ranking Member Burr, thank you so much for bringing us together today. Ms. Nanda and I discussed this with Secretary Walsh as well, and I shared with him that I am a proud son of a union ironworker. My late father, Ben Lujan. My mom's father was a union carpenter. My brother is currently a union IBW electrician. I was born and raised in a union family. Similar story to Senator King. I think it is important to have strong worker protections.

My father, he sadly died from lung cancer because of exposure on the job, asbestos, other chemicals that take too many people's lives too soon. We need to have strong worker protections in place. And that is one of the reasons why I do support the project. And it is one of the reasons why I have concerns with so-called right to work laws, which I would describe as right to work for less. On average, workers in their states earn \$1,500 less than their counterparts.

I want to do everything I can to help middle class, hardworking families do better. Now, one of the questions that I have is around Davis Bacon. I am a strong supporter of Davis Bacon protections because they provide workers with fair, family sustaining wages. And Ms. Nanda, if confirmed, what steps would you solicit or take to ensure the robust enforcement of Davis Bacon?

Ms. NANDA. Thank you so much for that question, Senator. I appreciate the question very much. Davis Bacon has important requirements for Federal contractors in terms of ensuring the prevailing wage on Federal contracts. I think in terms of, if I were fortunate enough to be confirmed, I would want to get a good understanding as to the state of enforcement throughout the agency. And that would include on what wage an hour is doing right now in terms of Davis Bacon enforcement. And you have my commitment that, should I be confirmed, that is something that I would certainly want to look into very carefully.

Senator LUJAN. I appreciate that. Ms. Abruzzo, I understand that as of late last month, the NLRB has brought Spanish language outreach efforts on its website and social media. What are your thoughts on expanding this type of outreach to ensure workers that speak different languages understand their rights?

Ms. NANDA. Thank you for that question, Senator Lujan, and I really enjoyed our conversation that we had, particularly regarding the employees with the agency and various Spanish speaking consulates. I would say, of course, I fully embrace having a very robust outreach program and expanding it much further to reach many other workers of vulnerable and underserved populations. I would like to see an expansion of the employees with consulates in other foreign countries so that the businesses, as well as the communities and the workers within the communities, all understand the rights and obligations under the statute.

I am a true proponent of as robust an outreach program as we can possibly have so that there is a better understanding of the rights under the NLRA, particularly as under the current NLRA, there is no mandatory requirement of employers to post the rights under the NLRA to act collectively to improve wages and working conditions if workers so choose.

Senator LUJAN. Most the farm workers are some of our Nation's most vital but most overlooked workers. Among so many responsibilities, they take our food, they prepare food that we eat every day. They are the backbone of our Nation's food security. How can we work together to ensure that all workers' rights are going to be protected and that we will ensure that everyone gets a fair shake?

Ms. NANDA. Thank you for raising the issue of farm worker protections, Senator. Farm workers are the ones who are out there every day preparing our food, particularly over the last year, often at great risk to themselves. Farm work is a risky business in general. The Department of Labor plays an important role in protecting farm workers. OSHA has standards that apply to farm workers and wage an hour has specific laws related to the specific protection of farm workers in terms of wages, transportation, housing, other issues.

If I am confirmed, as I indicated, I would certainly want to get an overall assessment of the state of enforcement and understand resources. But those are certainly important things that I would want to look into.

Senator LUJAN. Thank you, Madam Chair. Thank you so much. I yield back.

The CHAIR. Thank you.

Senator Braun.

Senator BRAUN. Thank you, Madam Chair. First question is for Ms. Nanda. If you are successful, get the position, I know you have been vocal on issues like pro-choice and maybe others as well. Do you intend to keep that same type of decibel level vocalizing on especially the pro-choice issue among any others or are you going to confine it to the domain of labor?

Ms. NANDA. Thank you, Senator, for that for that question. I think, if I am fortunate enough to be confirmed as Solicitor of Labor, I will have my hands quite full working on issues that are pertinent to the Department of Labor. I will say that I like President Biden. I do believe that women's reproductive health is an integral part of their health care. But I expect that my work, if I am confirmed, will be related to issues that are of pertinence to the Labor Department.



Certainly, if anything related to that comes within the purview of Labor, I will approach everything with an open mind. I will follow the law. I will listen carefully to stakeholders on all sides of the issue. And I will judge those issues fairly and impartially without bringing any personal views I may have into the equation.

Senator BRAUN. Thank you. Ms. Abruzzo, I come from the world of small business and independent contractors, all the flexibility small entities need in basically the paradigm currently in place. There is always a tug of war on that particular issue. You now have the gig economy and embedded in the Pro Act, for instance, would be things that will change that current dynamic.

I can tell you it would be catastrophic for what Democrats, President Biden normally are interested in, and that is small business. If you don't keep an attentive eye to how that might disrupt things. I have noticed over time, large companies seem to navigate through these issues much more easily. What it would mean for small business in many cases is that they would have to shut down or drastically change how they do business.

Recently coming from it, especially on that issue of independent contractors, that is important, and it seems to be working well, most—what gives that small business owner flexibility without having an undue regulatory burden. I would love to hear your comments on that.

Ms. ABRUZZO. Thank you for the question, Senator Braun and I enjoyed our conversation on this very topic of small businesses. So, what I will say is certainly small businesses are the engines of our economy. And in terms of employee status versus independent contractor, of course, it is important for there to be employee status because employees enjoy the protections of workplace protection laws.

However, I can only enforce the National Labor Relations Act and I will apply the broad statutory language. The National Labor Relations Act currently does not have the ABC test that is in the Pro Act and so should the Pro Act, again, be enacted or something similar, I would enforce that. But certainly, I will apply the statutory language if I am fortunate enough to be confirmed.

Senator BRAUN. If you do get confirmed, I think it would be important to maybe weigh in if you had an opinion as to whether it would be better or not to keep what we have got versus what might be in that Act. Thank you so much.

The CHAIR. Senator Hassan.

Senator HASSAN. Well, thank you very much, Chair Murray and Ranking Member Burr. And to our two nominees, thank you so much not only for being here today, but for your willingness to serve your country. I want to start with a couple of questions to you, Ms. Abruzzo. We have to protect the rights of workers to organize and collectively bargain, which is why I joined many of my colleagues in support of Chair Murray's bill, the Protecting the Rights to Organize after the Pro Act.

Across the country, right to work legislation has been introduced in state legislatures, including my home State of New Hampshire. If this type of legislation passes, it will make it significantly more difficult for workers to form unions and fight for better benefits. Ms. Abruzzo, as General Counsel of the National Labor Relations

Board, how will you improve and protect the rights of workers to organize?

Ms. ABRUZZO. Thank you for that question, Senator. So the statute was enacted during the Great Depression and it was to level the playing field and to inject money into the economy. And certainly, I would want to, in this moment in time and particular with regard to the COVID crisis, I would want to vigorously protect the rights of workers to act collectively, to improve their wages and working conditions with or without a union. I think that it is extremely important for there to be labor management partnerships for businesses and their workers and worker advocates to engage on health and safety issues, as well as other workplace issues.

I think that CWA and other labor organizations have been very successful in negotiating with employers over successful health and safety protocols and plans, PPE, and flexible scheduling and leave. And so, I would encourage more labor management partnerships in this regard. I think it is critical for the well-being of workers in this country, and I think it will enure to the benefit of businesses and the economy to have healthy and safe workplaces and enable workers to be more productive, which will enure to spur the economy and allow businesses to have more outputs.

Senator HASSAN. Thank you. Following up on that, the COVID-19 pandemic has certainly imposed a significant burden on workers and highlighted widespread inequities present workplaces across the country. Compounding the issue, the pandemic has made it more difficult for workers to actually gather and discuss challenges that they face in the workplace. So that informal kind of sharing of information is much harder to do when you are not physically together. So how do you think the pandemic has affected the right of workers to collectively bargain and join with other workers to organize? And how do you think the General Counsel's Office can support these workers? And if you can be brief, that would be helpful.

Ms. ABRUZZO. Sure. So certainly I think the pandemic has caused challenges for everybody. But workers have the right to engage collectively to improve their wages and working conditions. And we will use whatever means that they can. And I think there has been successes, so I would hope and expect that will continue.

Senator HASSAN. Thank you. I want to move on to a couple of questions for Ms. Nanda. Something we have to continue to work on is how to expand opportunities for workers in recovery from substance misuse. In New Hampshire we have continued to grapple with the substance use disorder epidemic, often leaving individuals in recovery struggling to find their way back into the workforce. Ms. Nanda, how can the Department of Labor work to ensure that workers in recovery have the support that they need to reenter the workforce and stay in recovery?

Ms. NANDA. Thank you for your question, Senator. The opioid epidemic has been, it probably was the biggest national health crisis before this past year. And I think the Department of Labor can play a very important role. I believe that the prior administration did do some work in this area with workforce training. And I think that there is more that can be done with alignments with the workforce system. There is a lot of opportunity with the reauthorization,

hopefully this year, of the Workforce Innovation and Opportunity Act to make sure that the workforce system is thinking about particular strategies. And if I am confirmed, I look forward to, within the Solicitor's Office purview, thinking about that issue more.

Senator HASSAN. Thank you. I think it is just also really important that we work to make sure that people who are in recovery aren't stigmatized because that is a critical barrier in some cases. I am running out of time, so I will just note that I will submit a question for the record.

One of the things I think the Department of Labor really needs to do is collect data on employers who receive waivers under Section 14(c) to pay some minimum wage to workers with disabilities. And I would look forward to a discussion about how we could really collect data and understand who is paying sub-minimum wage and why. So, thank you.

The CHAIR. Thank you.

Senator Marshall.

Senator MARSHALL. Thank you, Madam Chair. My first question for both of you. For many, many people, part of their American dream is to own their own business. And a franchise is one model that has enabled that. And I think that the franchise model is just another example of American exceptionalism. And I want to just ask you both about the joint employer standards and how you would define it. And I would assume based upon your records, you would probably more loosely define what a joint employer standard looks like, and what would that impact be on the franchises? And I will start with Ms. Nanda first.

Ms. NANDA. Thank you, Senator, for that question. So, I will start by saying that small businesses are so much the engine of our economy. People don't often realize that it is something in the nature of 50 percent of all workers workforce for small businesses. So, they are also important job creators. With regards to joint employment and the standard, this is an issue that is presently subject to litigation at the Labor Department.

There was a standard—there was a rule, an interpretive rule issued by the prior administration that had an adverse decision. My understanding is that litigation is presently pending in the Circuit Court. So, it is under active consideration at the Department. I am not presently in the building and I haven't been privy to discussions and deep legal analysis in the benefit of conversations with the Secretary and career attorneys.

Senator MARSHALL. Okay, so you don't know much about it or don't have an opinion on it. Ms. Abruzzo, how do you think that a more loosely defined joint employer standard is beneficial and how would it impact the franchise industry?

Ms. ABRUZZO. Thank you for the question, Senator. Well under the NLRA, and there is a language, statutory language defining who an employer is, the current NLRB has also implemented a rule recently regarding a joint employer that defines the joint employer as an entity with substantial, direct and immediate control over essential terms and conditions of employment.

If I am fortunate enough to be confirmed, I would ensure that the Board agents are applying the statutory language and the

Board's rule and extend Board law regarding the joint employer relationship.

Senator MARSHALL. Yes, I guess my question is, if it is more loosely applied, how would it impact the franchise industry?

Ms. ABRUZZO. Thank you, Senator. I really can't speak in hypotheticals. We can't give advisory opinions. I would have to review a case that comes before me after a fact intensive investigation and apply the appropriate language, the rule, the Stanford Law, to the facts of the case.

Senator MARSHALL. Thank you. My next question for Ms. Nanda. I want to talk a little bit about emergency temporary standard. According to OSHA's authorization, there is two requirements that must be met for OSHA to promulgate an emergency temporary standard. First, that workers are exposed to grave danger from exposure to substance or toxic or physically harmful.

Second, that an emergency temporary standard is necessary to protect workers from that danger. I think that we all can agree that we have got COVID on the run thanks to the Trump vaccine that is out there now, that we should be approaching herd immunity, that the incidence is going down, that every American by now, adult has had the chance to have the vaccine.

Do you still think that there is a grave danger and that we should be applying this emergency temporary standard or not?

Ms. NANDA. Thank you for your question, Senator. My understanding is that the Department just sent a proposed emergency temporary standard rule to OMB. It is what is called Rocust. It is not publicly available. I am not at the Department and I haven't seen what is in that standard. Certainly, we have some half a million Americans who have lost their lives and we want to ensure that they are protected, including being protected at the workplace. I certainly hope you are right that we are through the worst of this, but it is difficult for me to comment on the standard because I haven't seen it and I am not at the Department yet.

Senator MARSHALL. The vaccine is 90—95 percent effective, preventing you getting the virus, probably 100 percent preventing you from being hospitalized or from dying from it, so I don't see that there is any type of grave danger. Wouldn't you agree?

Ms. NANDA. I would say that thinking about what is happening in the world right now with variants and having a child who is still not vaccinated, I again certainly hope that you are right that we are through the worst of this. But it is difficult for me to comment on the propriety of an emergency temporary standard, not having seen it.

The CHAIR. Thank you.

Senator HICKENLOOPER.

Senator HICKENLOOPER. Thank you, Madam Chair. I appreciate the opportunity to speak and ask a couple of questions. First, Ms. Abruzzo, unlike many labor laws, the National Labor Relations Act does not provide for the way that workers can take their own cases to court. Instead, workers rely entirely on the General Counsel to investigate and prosecute cases on their behalf. With a 33 percent decrease in NLRB field staff, this is over the last decade, are workers being denied due process, and can you describe for us your ap-

proach to enforcing workers' rights and how you might go about prioritizing these cases?

Ms. ABRUZZO. Thank you, Senator, for that question, and I appreciated meeting with you actually the morning before the mass shooting, so I hope that the Boulder community is healing. So, what I will say is I was extremely troubled to learn of the significant number of staff reductions, particularly over the past few years in the hundreds without backfilling, particularly in the field offices where over 90 percent of the agency's work is performed.

I certainly think that the lack of staff and resources, particularly in the field, does affect the full and thorough enforcement of the statute. As you correctly note, there is no private right of action. And so, it is really incumbent upon us in the first instance to do a full and thorough quality investigation because workers have no recourse to go to the courts to seek redress if they feel that their rights under the statute have been violated.

If I am fortunate enough to be confirmed, I would certainly want to speak with the career staff about not only personnel matters and staffing up, but also regarding financial matters and administrative matters. But I would expect that one of the first order of business will be to determine what offices need to be staffed more appropriately so that they can fully effectuate the Congressional mandate.

Senator HICKENLOOPER. Great. Thank you very much for that answer. Ms. Nanda, on January 21st, President Biden signed an Executive Order on Protecting Worker Health and Safety that directs OSHA to increase enforcement of existing agency standards and investigate whether a new COVID-19 standard is needed.

Both workers and businesses are more desperate, as we have seen in just today and so many previous days. They are desperate for the science-based standards to better protect our employees and customers, the future of their business. Most business owners follow the law and make the necessary investments to create safe workplaces for their employees and their customers.

Should you be confirmed, how can you tell us how you would plan to work with OSHA and respond to those rare examples where people don't comply with workplace worker safety rules so that law abiding business owners aren't disadvantaged?

Ms. NANDA. Thank you for your question, Senator. I think what we have seen with what America's workers, particularly the workers who are what we call essential workers, First Responders, people who produce our food, farm workers, they have gone through a lot over the past year plus. So, I think enforcement and ensuring their protections. This isn't about any health and safety matter. This is really about their lives. It is incredibly important.

If I am fortunate enough to be confirmed, I would want to have an understanding of what cases are presently in the pipeline and how those standards are being enforced, whether it is under an emergency temporary standard or the general duty clause, but really making sure that we do have robust enforcement so that we are protecting our Nation's workers is going to be incredibly important.

Senator HICKENLOOPER. Thank you, Ms. Nanda. And thank you both. You are both eminently qualified, and I did enjoy our con-

versation as well, even though it was so ill timed right before the shooting. I believe I have got my long question, which I will resist because I think I am almost out of time, so I will yield the rest of my time to the floor, Madam Chair.

The CHAIR. Thank you very much. Senator Burr, do you have any additional questions?

Senator BURR. I do, Madam Chair. I will be brief because I know we have got a vote coming up. Ms. Nanda, listen, I know you had a political job at the DNC. I get it. But you said you tweeted that the Republican leader was undermining democracy by confirming Article 3 judges. Do you really believe a majority leader is undermining democracy doing his job?

Ms. NANDA. Thank you, Ranking Member Burr. No, I don't believe that the majority leader is undermining democracy by enforcing Article 3 or confirming judges. I don't know the exact tweet or quote that you are saying. I would be happy to take a look at it, provide any further explanation. But I would like to go back to saying that tweets can happen very quickly and sometimes they might not be exactly what we would say if we had a little bit more deliberative time. But no, I don't believe that.

Senator BURR. Okay, well, you understand the importance of this. I mean, we are asking you to fill a role that has statute and law that you got to follow and so does the majority leader. I also referenced that you made a tweet that said that Senator Collins was ambivalent and unsympathetic to allegations of sexual assault. Now, was that politics or do you believe Senator Collins is ambivalent and unsympathetic of allegations of sexual assault?

Ms. NANDA. Senator, I think what you are referring to is a re-tweet I did of a tweet from someone else that was immediately following the Justice Kavanaugh decision or her decision on how she would vote on that.

Senator BURR. Did you re-tweet it because you believed it to be accurate?

Ms. NANDA. I will say that I, at the time, felt very strongly about the balance of the Supreme Court. I don't have a belief that justice—excuse me, Senator Collins doesn't care about victims or survivors. I was more retweeting to the extent I can recall the exact circumstances of it to express my views with regard to the balance of the court.

Senator BURR. This one doesn't fall in the category of political, this falls in the category of personal. It is a personal assessment you made of Senator Collins.

Ms. NANDA. I wouldn't say I was making a personal assessment of the Senator. I think I was using the forum to express my concern about the balance of the court.

Senator BURR. You think she probably took it personally?

Ms. NANDA. As I stated before, I don't know. I don't know if she saw it.

Senator BURR. You said earlier that you felt you had the freedom to do some of these things because of the discourse in Washington. Now, the discourse in Washington is not done by one party and not the other, it is not done by one person and not the other. In fact, what you did was you contributed to this discourse. Let me ask you this—

Ms. NANDA. Senator, if I may.

Senator BARR. Absolutely.

Ms. NANDA. I don't think I was saying I had the freedom to do this because of the discourse. I believe I was—what I was intending to say before was I think with the discourse of our country, I was caught up in that discourse. And I can commit to you, I can't explain every tweet I have ever sent, but I can commit to you that moving forward, I will work collaboratively if I am fortunate enough to be confirmed, with Members of this Committee as well as other stakeholders.

Senator BARR. As Solicitor, will you—you will be required not only to determine, in coordination with the Secretary, those employees who should be referred for litigation, but with advising agencies on protocol procedures, including rulemaking. Will you commit to adhering to the procedures of the APA and substantively considering comments from all stakeholders, employees, and workers alike?

Ms. NANDA. Absolutely.

Senator BARR. Okay. Madam Chair, I yield.

The CHAIR. Senator Smith.

Senator SMITH. Thank you, Madam Chair and Ranking Member Burr. And I am so glad to be here today with both of our nominees and to hear about your approach. I think these are such important roles and I am really grateful to be here today to support your nomination.

I would like to start with Ms. Nanda. Ms. Nanda, according to the Economic Policy Institute, Americans lose three times more in wage theft than they do in street robberies, bank robberies, gas station robberies, and convenience store robberies combined. And the victims of wage theft are disproportionately low wage workers, women, and workers of color.

Can you tell us on this Committee what you think about wage theft? And if you were concerned, how will you work within the Department of Labor to stop this from happening?

Ms. NANDA. Thank you so much for that question, Senator, for raising such an important issue. Wage theft undercuts the basic promise, I think, of any democratic society that you go to work, and you get paid for what you have agreed to do. It is a pernicious problem, and it unfortunately falls disproportionately on those workers who can afford to lose those wages the most, the most vulnerable workers, often women of color. So, wage theft is going to continue to be a priority for me, if I am fortunate enough to be confirmed, and focusing on making sure that we are getting folks the wages that they deserve under existing law for both overtime violations and the failure to pay minimum wage.

Senator SMITH. To be clear, wage theft is illegal. This is not sort of a discretionary question. This is a question of working people who are required to do things that is necessary for their job and not getting paid for that part of the work that they are doing. Isn't that right?

Ms. NANDA. Absolutely.

Senator SMITH. I am thinking about the question that Senator Kaine asked a little earlier as he was reflecting on his father's business and employers that do everything right, that make sure

that they are looking out for the best interests of their businesses and the best interests of their employees.

Those employers trying to compete against businesses that are engaging in wage theft is an unfair, unequal playing field for them. And some might say that, oh, well, if you don't like what you—if you don't like how you are being treated in one job, that you could just go work for somebody else. But why is that always not such a reasonable option, Ms. Nanda, for working people?

Ms. NANDA. Workers are often facing very vulnerable situations. There are issues related to human trafficking, there are issues related to immigration status, but also even if workers do go to work for another employer, there is still this issue of how they collect those back wages. And to the point you are making, Senator, about undercutting businesses, there are certainly lots of instances where businesses are bidding for contracts.

They are trying to actually get work. And if you have low road employers that are not paying the same wages, that are undercutting labor standards, they can underbid you. So, this is a problem that hurts high road employers. It hurts the basic promise of our country. And it is something that will be very important to me, should I be confirmed.

Senator SMITH. Thank you. Thank you so much. I appreciate that. I just have about a minute left and I would like to just quickly turn to Ms. Abruzzo. I have to say that I come to this with a core value that when people have the right to come together and collectively organize for better working conditions, better benefits, better wages, that they do better, their families do better, and we all do better.

I think that we have really seen this to be a truth in the midst of the COVID pandemic, where in the past year, unionized workers have been able to secure strong benefits. And then yet we have seen workers, low wage workers really, really struggle. Ms. Abruzzo, could you just talk a little bit about, as General Counsel, how will you use your role to ensure that the NLRB fully fulfills its duty to safeguard workers' rights in this moment?

Ms. ABRUZZO. Thank you very much, Senator, and I much appreciated our discussion, particularly about McAllister, and I hope you have an opportunity to read my brother's books. I certainly will vigorously enforce the statute and protect the rights of workers to act collectively to improve their wages and working conditions. You mentioned the Economic Policy Institute's studies, and it is—the studies reflect that represented workers earn more and have better workplace protections.

The majority of represented workers are women and people of color. And so, if I am fortunate enough to be confirmed, I certainly would encourage collective bargaining, industrial stability, and promote more labor management, partnerships so that workers, and in particular those in vulnerable populations, can be assured that the Government is protecting their rights.

Senator SMITH. Thank you very much. Thank you, Madam Chair.

The CHAIR. Thank you.

Senator Rosen.

Senator ROSEN. Thank you, Chair Murray, Ranking Member Burr. Thank you for the witnesses for being here today, your will-



ingness to serve. I want to focus a little bit on the unemployment system modernization, because like many states, Nevada has faced challenges in distributing our unemployment benefits during the COVID-19 crisis. Our state's unemployment rate remains some of the highest in the country, and the needs for benefit, they still remain as our tourism-based economy is still in recovery mode.

Our state is working very hard to get benefits out the door, but Nevada and states across the country need IT systems that can manage setting up the new Federal programs to process the claims, root out fraud like my colleagues have been speaking about, and really update this outdated unemployment insurance technology that we have. Far too many states have just not been able to react to this crisis. So, Ms. Nanda, the Solicitor's Office provides legal guidance to other agencies in the Department, including guidance to the Department—to the Employment Training Administration on unemployment insurance.

How can you work with ETA to provide clear guidance in administering unemployment insurance programs, ensuring that we get the timely benefits, protect us from fraud that we may be having problems with because we have these aging legacy systems. And do you think that you have any role in helping to guide these state—all of our states and moving us off his legacy systems onto more nimble platforms that we can all share?

Ms. NANDA. Thank you so much, Senator, for raising this important issue. Unemployment insurance and the systems have been antiquated for a while. And I think what we really saw over the past year, a little longer than a year, is so much taxation on all of those systems. Really the perfect storm as so many Americans who were out of work through no fault of their own and needed those timely payments were not able to get them.

At the same time, we saw really sophisticated criminal networks taking advantage of those problems and the antiquated systems to the tune of billions of dollars. So, if I am confirmed, I will work very closely with the career attorneys and others who are providing that critical guidance to those working on the unemployment insurance program.

I was very excited to see, in the American Rescue Plan, \$2 billion allocated toward modernizing some of those systems and making sure that the UI systems can perform those twin goals of getting out timely payments to those who are entitled to them and ensuring that there is not fraud on the system.

Senator ROSEN. Thank you. I think IT modernization is key across many Departments, and this is especially important. But I would like to move on to talk about expanding services in diverse communities, because from the census data we saw last week, Nevada's the fifth fastest growing state in the country. We are proud of our diverse population. It includes vibrant tribal communities, Latino communities, AAPI communities, and we have all kinds of workers that need the support and protection of your agency.

Ms. Abruzzo, the NLRB recently launched a Spanish language outreach initiative. Can you tell us about other efforts that you are going to do to reach workers in rural areas, underrepresented communities who might not generally be aware of the legal protections

provided to them? And are you going to expand to maybe other language platforms as well?

Ms. ABRUZZO. Thank you so much for that question, Senator. And if I am fortunate enough to be confirmed, I certainly and truly believe that we need to promote a very robust outreach program, particularly in underserved and rural communities. As I mentioned, there is no mandatory requirement for employers to post the rights of workers under the National Labor Relations Act. So, it is imperative for the agency to educate those workers, as well as small businesses, corporations, and worker advocates as to the rights and responsibilities.

I also, as I mentioned earlier, I would certainly foster more inter-agency partnerships among colleagues and sister agencies. I did that when I was at the NLRB and certainly we engaged in joint outreach, which, by the way, the NLRB does not have an outreach budget line item. I hope at some point we do. But at any rate, we were able to engage in joint outreach with sister agencies like the EEOC and Department of Labor that do have that. And we reached out to the AAPI community.

I certainly would want to promote more of that, as well as reaching out to all other vulnerable populations and underserved communities.

Senator ROSEN. Thank you, Madam Chair, I see my time has expired. I yield back.

The CHAIR. Thank you very much. And our vote series have started, and this will end our hearing. So, I would like to thank my fellow Committee Members for their participation in today's hearing and our witnesses, Ms. Abruzzo, Ms. Nanda, for joining us to speak about the challenges workers across the country are facing. I look forward to working with both of you to address these challenges.

For any Senators who wish to ask additional questions of the nominees, questions for the record will be due by Friday, April 30th, at 5 p.m. The hearing record will remain open for 10 days for Members who wish to submit additional material for the record. And this meeting is now adjourned.

#### ADDITIONAL MATERIAL

COMMUNICATION WORKERS OF AMERICA,  
*April 28, 2021.*

Hon. PATTY MURRAY, *Madam Chair*,  
Hon. RICHARD BURR, *Ranking Member*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC.*

DEAR CHAIR MURRAY AND RANKING MEMBER BURR:

On behalf of the officers and members of the Communications Workers of America (CWA), I am writing in strong support of the nomination of Jennifer Abruzzo to serve as the next General Counsel of the National Labor Relations Board (NLRB). Not only will Abruzzo lead the NLRB in reversing the anti-worker policies enacted in the last four years, she will move the Board forward in promoting strong labor law.

Prior to working as Special Counsel for Strategic Initiatives at CWA, Abruzzo had an extensive career at the NLRB. She has held various positions, including as Field Attorney and Deputy Regional Attorney in the Region 12 office, Deputy Assistant General Counsel in the Division of Operations-Management, and Deputy General

Counsel in the Office of the General Counsel in Washington, DC. Her two decades of working with the agency gives her vast knowledge of the agency's functions and purpose and illustrates her dedication to protecting workers' rights.

While at CWA, Abruzzo's work has focused on ensuring that workers' rights to organize and join a union or otherwise take collective action to advance their shared interests are protected. She has proven herself to be one of the most thoughtful and effective advocates in the country on behalf of workers seeking to exercise their rights.

It is important that the General Counsel of the NLRB is dedicated to the NLRA's mission of upholding and protecting workers' rights to form unions and collectively bargain. Under the Trump Administration, the NLRB deviated away from this mission and there was a rollback of many fundamental worker rights. Abruzzo's extensive career demonstrates that she understands how the actions of the NLRB affect the daily lives of people at their workplaces. There is no doubt she can lead the agency in protecting and strengthening rights of working people.

I strongly urge you to support and swiftly confirm Jennifer Abruzzo as the next General Counsel of the National Labor Relations Board.

Thank you for your consideration.

Sincerely,

DAN MAUER,  
DIRECTOR OF GOVERNMENT AFFAIRS,  
COMMUNICATION WORKERS OF AMERICA (CWA).

COMMUNICATION WORKERS OF AMERICA,  
*April 29, 2021.*

*Senate Committee on Health, Education, Labor, and Pensions,  
428 Dirksen Senate Office Building,  
Washington, DC.*

DEAR MEMBERS OF THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS:

The undersigned organizations write in strong support of the nomination of Jennifer Abruzzo to serve as the next General Counsel of the National Labor Relations Board (NLRB).

The mission of the National Labor Relations Board is to safeguard the rights of workers to organize and engage in collective bargaining, and protect workers against unfair labor practices. Consequently, the NLRB's General Counsel is responsible for investigating charges that employers or unions have violated Federal labor law and for prosecuting violations. Jennifer Abruzzo's extensive career at the NLRB positions her to serve as the General Counsel to promote and administer the agency's mission.

For over 20 years, Abruzzo worked for the NLRB in various capacities, including as Field Attorney and Deputy Regional Attorney in the Region 12 office, Deputy Assistant General Counsel in the Division of Operations-Management, and Deputy General Counsel in the Office of the General Counsel in Washington, DC. Abruzzo's career gives her unparalleled knowledge of the agency's functions and purpose under the National Labor Relations Act (NLRA).

Under the Trump administration, the NLRB's General Counsel advanced policies that left fewer workers protected by the NLRA and advocated for changes in the law that roll back workers' rights.<sup>1</sup> These actions were clear contradictions to the NLRB's mission and will need to be addressed to make a more inclusive and equitable economy. Abruzzo's extensive experience at the NLRB and firm commitment to its mission will help restore the agency to its original purpose to "promote and encourage the practice of collective bargaining."<sup>2</sup> As General Counsel, Abruzzo will play an integral part in enforcing workers' right to organize and collectively bargaining over wages and working conditions, and assuring working people are paid fairly, treated with dignity, and have a voice on the job.

We are encouraged that the Biden administration has nominated a General Counsel that has a strong background, who will protect and strengthen the rights of

<sup>1</sup> <https://www.epi.org/publication/unprecedented-the-trump-nlrbs-attack-on-workers-rights/>.

<sup>2</sup> Pub. L. No. 74-198, 49 Stat. 449 (1935) (codified as amended at 29 U.S.C. §§ 151-169).

working people under the NLRA. For these reasons, we urge you to support the confirmation of Jennifer Abruzzo to be the next General Counsel of the NLRB.

Signed,

THE AMERICAN COLLEGE OF FINANCIAL SERVICES  
AMERICAN FEDERATION OF TEACHERS  
CENTER FOR AMERICAN PROGRESS  
CLOSING THE WOMEN'S WEALTH GAP  
COMMUNICATIONS WORKERS OF AMERICA (CWA)  
ECONOMIC POLICY INSTITUTE  
FUTURES WITHOUT VIOLENCE  
INDIVISIBLE  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
JOBS TO MOVE AMERICA  
NATIONAL DOMESTIC WORKERS ALLIANCE  
NATIONAL EMPLOYMENT LAW PROJECT  
NATIONAL IMMIGRATION LAW CENTER  
NATIONAL ORGANIZATION FOR WOMEN  
NATIONAL WOMEN'S LAW CENTER  
PEOPLE'S PARITY PROJECT  
SERVICE EMPLOYEES INTERNATIONAL UNION  
VOICES FOR UTAH CHILDREN  
WORKPLACE FAIRNESS

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LABORERS' INTERNATIONAL UNION OF NORTH AMERICA,  
WASHINGTON, DC,  
April 28, 2021.

Hon. PATTY MURRAY, *Madam Chair*,  
Hon. RICHARD BURR, *Ranking Member*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC*.

DEAR CHAIR MURRAY AND RANKING MEMBER BURR:

On behalf of the 500,000 members of the Laborers' International Union of North America (LIUNA), I write to declare our support of the nomination of Jennifer Abruzzo as General Counsel of the National Labor Relations Board.

Ms. Abruzzo spent more than two decades at the NLRB. In that time she served as Field Attorney, Supervisory Field Attorney, and Deputy Regional Attorney in the Region 12 office in Florida. She also supervised operations in the Northeast and Midwest as the Deputy Assistant General Counsel for the Division of Operations-Management.

Ms. Abruzzo would bring valuable experience to the General Counsel position at the agency, where she would investigate violations of labor law and ensure that the law is properly enforced. Her extensive knowledge of the National Labor Relations Act and the NLRB's role in guaranteeing the rights of workers also ensures that she is well qualified to serve in this role.

It is vital that the agency has leaders who are highly capable in enforcing the law and protecting workers from unfair labor practices and exploitation. With this in mind, LIUNA urges the Committee to support Jennifer Abruzzo as the next General Counsel for the NLRB.

With kind regards, I am

Sincerely yours,

TERRY O'SULLIVAN,  
GENERAL PRESIDENT.  
MARSHALL B. BABSON,  
April 15, 2021.

Hon. PATTY MURRAY, *Madam Chair*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC*.

DEAR CHAIR MURRAY:

My name is Marshall B. Babson. I am a former Member of the National Labor Relations Board ("NLRB"), appointed by President Reagan in 1985 and confirmed

by the U.S. Senate. I presently serve as Counsel at Seyfarth Shaw LLP although I write today in my individual capacity only and not on behalf of any firm or organization. With the exception of my service on the NLRB from 1985 to 1988, my law practice has been devoted principally to representing employers and companies in cases pending before the NLRB. I am writing in support of the nomination of Jennifer Abruzzo to be General Counsel of the NLRB. I have known Ms. Abruzzo for more than 20 years during her service as a career employee at the NLRB and culminating in her service as Deputy General Counsel and then briefly as Acting General Counsel. Ms. Abruzzo is a highly intelligent, highly motivated lawyer with many years of experience administering and advancing the policies and purposes of the NLRA. Given her years of service, I cannot think of an issue or a matter under the NLRA with which she is not familiar. Ms. Abruzzo, however, not only is steeped in exceptional experience in administering the NLRA, she has evinced through her many years of service an unwavering commitment to fairness, evenhandedness and efficiency in all of her work.

Simply put, in my experience, Ms. Abruzzo “calls them as she sees them” and as the statute *requires* without advantage or favor to any party or organization. There is no doubt in my mind that, if confirmed, she will fulfil her role in furtherance of the policies and purposes of the NLRA.

It is my view that Jennifer Abruzzo is exceptionally well qualified for the position of General Counsel of the NLRB, and I encourage the Committee to act favorably upon her nomination.

Very truly yours,

\_\_\_\_\_  
MARSHALL B. BABSON.

THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS,  
 WASHINGTON, DC,  
 April 28, 2021.

Hon. PATTY MURRAY, *Madam Chair*,  
 Hon. RICHARD BURR, *Ranking Member*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
 428 Dirksen Senate Office Building,  
 Washington, DC.

DEAR CHAIR MURRAY AND RANKING MEMBER BURR:

The Leadership Conference on Civil and Human Rights, together with 53 organizations committed to ensuring the protection and advancement of the rights, economic security, and well-being of all working people in this country, writes in support of the nomination of Seema Nanda to serve as U.S. Solicitor of Labor.

Seema Nanda is highly qualified for the position to which she has been nominated. Nanda has dedicated the bulk of her career in public service to advancing opportunities for working people and ensuring the promotion and protection of Federal anti-discrimination laws. As former chief of staff to Labor Secretary Tom Perez, former deputy solicitor, and former deputy chief of staff at the Labor Department, Nanda has deep familiarity with the department, and possesses significant expertise in civil rights, labor, and employment law. She is also a champion for workers' rights and is experienced in leading complex, diverse organizations. The Leadership Conference was fortunate to have Nanda serve as executive vice president and chief operating officer, as she helped to usher in a new chapter for our coalition.

Now, at this critical moment in history, Nanda is the right person to serve as solicitor of labor. More than one year after the onset of the coronavirus pandemic in the United States, working people across the Nation continue to feel the economic impact of this ongoing global health crisis. Though thousands of jobs were added to the economy in March, the labor market is still down 8.4 million jobs from its pre-pandemic level. Structural racism and longstanding inequities have made the crisis worse for people of color, women, immigrants, and people with disabilities. Black, Latino, and Asian workers, for example, continue to experience more job loss than White workers, and Black women and Latinas have experienced historically high unemployment rates.<sup>1</sup> People with disabilities, as a group, have also suffered disproportionate job loss; between March and August of last year, one in five workers with disabilities lost their jobs.<sup>2</sup> Lack of paid leave, childcare, and other support during the pandemic have pushed many women out of the labor market entirely, threatening the immediate and long-term economic security of children and families. Two-thirds of mothers were either primary or co-breadwinners for their families before the pandemic, with more than 40 percent serving as sole or primary breadwinners. Low-income women and women of color are especially likely to be key breadwinners for their families.<sup>3</sup>

People across this country deserve a Department of Labor that will promote an equitable shared recovery and use all the tools available to ensure that the communities hit hardest by the pandemic have meaningful access to opportunities, that all workplaces are safe, and that all working people can earn a living free from harassment and unlawful discrimination. The solicitor of labor, together with the secretary and deputy secretary, must ensure that the department meets the moment, and Nanda is an exceptional choice. Throughout her career, Nanda has demonstrated a deep and nuanced understanding of both the Department of Labor and of the challenges facing our workforce, particularly those workers who because of their race, gender, disability, or other characteristics have long struggled to find secure, quality, and family sustaining jobs, and are finding it even more difficult to do so in these current times.

Importantly, the solicitor of labor is more than just the department's lawyer; the solicitor of labor is the top lawyer for millions of working people in the United States. Many of the statutes under the department's jurisdiction place exclusive enforcement authority in the hands of the department and do not provide a means for

<sup>1</sup> Elise Gould, Economic Policy Institute, March Jobs Report (Apr. 2, 2021), <https://www.epi.org/indicators/unemployment/>.

<sup>2</sup> Allen Smith, A Million People with Disabilities Have Lost Jobs During the Pandemic (Aug. 29, 2020), <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-unemployment-people-with-disabilities.aspx>;

<sup>3</sup> Sarah Jane Glynn, Center for American Progress, Breadwinning Mothers Are Critical to Families' Economic Security (Mar. 29, 2021), <https://www.americanprogress.org/issues/women/news/2021/03/29/497658/breadwinning-mothers-critical-familys-economic-security/>.

individual workers to pursue enforcement of their rights. Working people are therefore dependent on the department, and on the solicitor of labor, to vindicate crucial protections such as those provided under Executive Order 11246 and the Occupational Safety and Health Act, and other important laws. The solicitor also plays a key role in the development of regulations and standards that help ensure compliance with labor and employment laws, as well as legislative proposals to strengthen workplace protections. Workers need someone who understands the challenges they face so that laws, regulations, standards, and all other policy proposals are crafted with a keen eye toward addressing their needs.

Seema Nanda is well-suited to perform this role:

- Nanda has significant experience collaborating across agencies. While at the Department of Labor, for example, Nanda led a successful effort to update and expand a memorandum of understanding among the Department of Labor, the Department of Homeland Security, the Equal Employment Opportunity Commission, and the National Labor Relations Board to ensure robust enforcement of labor and employment laws, including protections against workplace discrimination, retaliation, and intimidation, consistent with Federal immigration laws.
- Nanda has a proven record of promoting employment opportunities. While at the Department of Labor, Nanda oversaw the expansion of the Registered Apprenticeship program. Through stakeholder engagement, the creation of new grant programs, and a public campaign, Nanda's efforts resulted in a 20 percent increase in the number of apprentices within two years.
- Outside of the Department of Labor, Nanda led the Office of Immigrant and Employee Rights Section of the Department of Justice's Civil Rights Division, which is responsible for enforcing the anti-discrimination provisions of the Immigration and Nationality Act. In addition to providing leadership to section attorneys, Nanda also led the development of immigration reform proposals and developed public education and training programs.
- As a fellow with the Harvard Law School, Labor and Worklife Program, and as an independent consultant, Nanda has continued to research labor law issues and has provided expertise on workers' rights and workplace policy proposals aimed at ensuring an equitable economic recovery.

The solicitor of labor plays a key role in ensuring that the Department of Labor can fulfill its mission to promote the welfare of working people, improve working conditions, advance opportunities, and protect and enforce workplace rights. Seema Nanda has demonstrated a deep commitment to this mission, and her background and experience make her exceptionally qualified to serve as solicitor of labor. For these reasons, we urge you to support the confirmation of Seema Nanda to be U.S. Solicitor of Labor.

If you have any questions, please contact Gaylynn Burroughs, senior policy counsel at The Leadership Conference.

Sincerely,

THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS  
A. PHILIP RANDOLPH INSTITUTE  
AFL-CIO  
AFRICAN AMERICAN MINISTERS IN ACTION  
AMERICAN ASSOCIATION FOR JUSTICE  
AMERICANS FOR DEMOCRATIC ACTION (ADA)  
ASIAN AMERICANS ADVANCING JUSTICE—AAJC  
ASSOCIATION OF FLIGHT ATTENDANTS-CWA  
BAZELON CENTER FOR MENTAL HEALTH LAW  
CALIFORNIA EMPLOYMENT LAWYERS ASSOCIATION  
CENTER FOR AMERICAN PROGRESS  
CENTER FOR LAW AND SOCIAL POLICY (CLASP)  
CENTER FOR PARENTAL LEAVE LEADERSHIP  
CENTRO DE LOS DERECHOS DEL MIGRANTE, INC.  
CHICAGO FOUNDATION FOR WOMEN  
CLEARINGHOUSE ON WOMEN'S ISSUES  
COALITION OF LABOR UNION WOMEN  
COALITION ON HUMAN NEEDS  
COMMUNICATIONS WORKERS OF AMERICA (CWA)  
ECONOMIC POLICY INSTITUTE  
EQUAL RIGHTS ADVOCATES  
FARMWORKER JUSTICE  
FEMINIST MAJORITY FOUNDATION  
FUTURES WITHOUT VIOLENCE  
INDIANA INSTITUTE FOR WORKING FAMILIES  
LATINOJUSTICE PRLDEF  
MATTHEW SHEPARD FOUNDATION  
NATIONAL ASIAN PACIFIC AMERICAN BAR ASSOCIATION (NAPABA)  
NATIONAL ASIAN PACIFIC AMERICAN WOMEN'S FORUM  
NATIONAL BLACK JUSTICE COALITION  
NATIONAL COUNCIL OF ASIAN PACIFIC AMERICANS (NCAPA)  
NATIONAL DOMESTIC WORKERS ALLIANCE  
NATIONAL EDUCATION ASSOCIATION  
NATIONAL EMPLOYMENT LAW PROJECT  
NATIONAL IMMIGRATION LAW CENTER  
NATIONAL LGBTQ TASK FORCE ACTION FUND  
NATIONAL ORGANIZATION FOR WOMEN  
NATIONAL WOMEN'S LAW CENTER  
NATIONAL WORKRIGHTS INSTITUTE  
NEW JERSEY CITIZEN ACTION  
PEOPLE FOR THE AMERICAN WAY  
PEOPLE'S PARITY PROJECT  
PFLAG NATIONAL  
PUBLIC ADVOCACY FOR KIDS (PAK)  
PUBLIC JUSTICE CENTER  
SECULAR COALITION FOR AMERICA  
SERVICE EMPLOYEES INTERNATIONAL UNION  
SHE THE PEOPLE  
SOUTHWEST WOMEN'S LAW CENTER  
SUPERMAJORITY  
THE NEW YORK WOMEN'S FOUNDATION  
ULTRAVIOLET  
UNITED STATE OF WOMEN  
WOMEN AND GIRLS FOUNDATION OF SOUTHWEST PENNSYLVANIA



NATIONAL EMPLOYMENT LAW PROJECT,  
NEW YORK, NY,  
April 27, 2021.

Hon. PATTY MURRAY, *Madam Chair*,  
Hon. RICHARD BURR, *Ranking Member*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC*.

DEAR CHAIR MURRAY AND RANKING MEMBER BURR:

On behalf of the National Employment Law Project (NELP), a non-profit law and policy organization with over 50 years of experience advocating for the employment and labor rights of our Nation's workers, I write to register our enthusiastic support of the confirmation of Seema Nanda as the next Solicitor of Labor of the Labor Department.

As the Nation continues to confront multiple hurdles that impact the well-being and livelihood of our country's workers, the Labor Department needs leadership that will prioritize inclusiveness, equity, and fostering worker power so that they have a meaningful say in the terms and conditions of their employment. Seema Nanda's extensive experience at DOL and in the Federal Government, coupled with her deep expertise in labor and employment law, makes her an exceptional Solicitor of Labor candidate.

Nanda's career as a legal advocate and champion for working people includes serving as a supervisory attorney at the National Labor Relations Board where she provided legal expertise in unfair labor practice cases that spanned various worker civil liberties such as the protection of concerted activity and the rights of undocumented workers to receive back pay. Her time as special counsel at the Department of Justice Civil Rights Division Office of Immigrant and Employee Rights was spent leading a myriad of agency actions such as expanding the office's enforcement efforts, developing public education programs, and working with the White House to reform our immigration system.

Perhaps most relevant, however is Nanda's prior experience in the Department of Labor, which uniquely positions her to hit the ground running on day one as Labor Solicitor. During her time at DOL, she served as Deputy Solicitor of Labor, Senior Counselor, Deputy Chief of Staff, and Chief of Staff to the Secretary. In these capacities, she led cross-agency partnerships between the Department of Justice, the Department of Homeland Security, the Equal Employment Opportunity Commission, and the National Labor Relations Board to develop a new memorandum of understanding on immigration-related labor law enforcement. She also worked to center inclusiveness within the agency by developing an equity-focused strategic plan for agency employees.

Ms. Nanda's long career in public service is estimable. At every turn, she has worked to expand opportunity for working people, with a particular eye toward the needs of Black, Indigenous, and other workers of color including immigrants, with leadership that has lifted up their voices and addressed their priorities. An economic recovery that is equitable must center these workers and recognize that their demands will lead to safe and just workplaces. NELP urges the Committee to confirm Seema Nanda immediately so that we can begin to move toward an inclusive recovery in collaboration and solidarity with working people.

Sincerely,

REBECCA DIXON,  
EXECUTIVE DIRECTOR.

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[Whereupon, at 11:40 a.m., the hearing was adjourned.]

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