

**NOMINATION OF JULIE SU TO SERVE AS  
SECRETARY OF LABOR**

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**HEARING**

**[BEFORE THE]**

**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
UNITED STATES SENATE**

**ONE HUNDRED EIGHTEENTH CONGRESS**

**FIRST SESSION**

**APRIL 20, 2023**

Printed for the use of the  
Committee on Health, Education, Labor, and Pensions



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ON

EXAMINING THE NOMINATION OF JULIE A. SU, OF CALIFORNIA, TO BE  
SECRETARY OF LABOR

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Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

54-474 PDF

WASHINGTON : 2024

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## NOMINATION OF JULIE SU TO SERVE AS SECRETARY OF LABOR

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Thursday, April 20, 2023

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

The Committee met, pursuant to notice, at 10:02 a.m., in room 430, Dirksen Senate Office Building, Hon. Bernard Sanders, Chair of the Committee, presiding.

Present: Senators Sanders [presiding], Murray, Casey, Baldwin, Murphy, Kaine, Hassan, Smith, Luján, Hickenlooper, Cassidy, Murkowski, Braun, Marshall, Romney, Tuberville, Mullin, and Budd.

Also present: Senator Padilla.

### OPENING STATEMENT OF SENATOR SANDERS

The CHAIR. The Senate Committee on Health, Education, Labor, and Pensions will come to order. This morning, we are considering President Biden's nomination of Julie Su to be the Secretary of the United States Department of Labor, and I welcome her this morning. And let me get directly to the point.

I strongly support Ms. Su's nomination. She has been an excellent Deputy Secretary of Labor for the last 2 years, and I believe she will make an excellent Secretary of Labor into the future. And I hope very much that she will be confirmed by the Senate, and we need her in her job as soon as possible.

Let us be honest as we gather this morning, the debate over Ms. Su really has nothing to do with her qualifications. No one can tell us with a straight face that Ms. Su is unqualified for this position. In fact, she is extremely well qualified.

This debate really has everything to do with the fact that Julie Su is a champion of the working class of this country who will stand up against the forces of corporate greed. That's really what this debate is about. And let's be very clear, for the last 50 years, middle class and working class of this country have been struggling.

While we have more income and wealth inequality today than we have ever had, over 60 percent of our people are living paycheck to paycheck and millions are working for starvation wages. Julie Su should be confirmed as our Secretary of Labor because she has spent her life fighting for those working families and they need her now.

What this nomination is about is really not complicated. Today, as we speak, large multinational corporations are spending millions of dollars on ads, sometimes ugly ads, in various parts of this country trying to defeat her nomination.

They know what I know. And that is that she is prepared to take on powerful special interests and stand up to the needs of those working people who desperately need defending today. And while many corporate interests, not all but many oppose her nomination, she is supported by every major labor organization in this country representing over 20 million workers, including the AFL-CIO, the United Mine Workers of America, the Teamsters, and the SEIU, all strongly support Ms. Su's confirmation.

Let us be clear, we need a Labor Secretary who understands that we must raise the minimum wage to a living wage, something that this Committee intends to do. We need a Labor Secretary who will work each and every day to make it easier, not harder, for workers to exercise their Constitutional right to join unions and collectively bargain for better wages, benefits, and working conditions.

We need a Labor Secretary who understands that we must end the international embarrassment of the United States being the only major country on earth that does not guarantee paid family and medical leave or paid sick days, something that this Committee will also address.

This is America, and when your child or your spouse gets sick, you should not be fired from your job because you are taking care of them. Julie Su understands that. We need a Labor Secretary who understands that it is unacceptable that women in this country are earning just \$0.84 on the dollar compared to men, and that we need equal pay for equal work, something this Committee will also address.

We need a Labor Secretary who believes that young people in this country should have access to apprenticeship programs which give them the skills they need to get good paying jobs, rebuilding America, something that this Committee will also address. We need a Labor Secretary who understands that employees in America who are working 50 or 60 hours a week should not continue to be cheated out of the overtime pay that they have earned and are entitled to.

We need a Labor Secretary who will strongly enforce the child labor laws that are on the books and expose the exploitation of underage workers by unscrupulous employers. We need a Labor Secretary who understands that it is unacceptable that half of older Americans have no retirement savings and that we need to expand, not cut, pensions in our Country. I strongly believe that Julie Su will be that Labor Secretary.

As I think we all know, 2 years ago the Senate voted to confirm Julie Su's nomination to be the Deputy Secretary of Labor by a vote of 50-47. Every Democrat in the Senate voted for her nomination. Every Republican in the Senate voted against her nomination. The only thing that has changed since that vote is that Julie Su has done an outstanding job as Deputy Secretary of Labor.

Working with former Labor Secretary Marty Walsh, who strongly supports her confirmation, Ms. Su has worked to successfully expand apprenticeships to more than 30,000 Americans so that they can go get the high-quality manufacturing and construction jobs that are desperately needed to rebuild this country.

Now, I understand that some of my Republican colleagues have expressed concerns about the 11 percent unemployment insurance fraud rate that occurred in California during the height of the pandemic, when Julie Su was California's Secretary of Labor. But here is what my colleagues conveniently ignore.

During that same period, the unemployment insurance fraud rate was 15.4 percent in Tennessee, 15.3 percent in Arizona, 14.3 percent in South Carolina, and over 14 percent in Massachusetts. All of those states had Republican Governors and Republican Labor Secretaries.

All of those states experienced higher unemployment insurance fraud rates than California. I should also—that the unemployment insurance fraud rate was 27 percent in Kansas, 23 percent in Rhode Island, 18 percent in Nevada, 16 percent in New York, I don't know what it was in Vermont, but it is pretty high in Vermont as well, all substantially higher than California.

The reality is that virtually every state in America face major challenges with respect to fraud in the unemployment insurance program. Why was that? Now, there are a couple of reasons. In the midst of a horrific pandemic, when President Trump was in office and Mitch McConnell led the Senate, when millions of Americans were rapidly losing their jobs, we all remember those terrible days.

Through no fault of their own, Republicans and Democrats came together and passed the CARES Act by a vote of 96 to 0. Every Member who was in the Senate at that time voted for it who is here today.

Republicans and Democrats made a conscious decision that the top priority in 2020 was to get unemployment benefits out as quickly as possible to millions of Americans who desperately needed it, and to relax regulations because we were dealing with an unprecedented economic and public health emergency.

That's precisely what we did in the CARES Act that Donald Trump signed into law. The truth is that the Trump administration failed to provide adequate guidance and resources to states on how to administer these emergency unemployment benefits. And as a result, fraud went up all across the country.

That was not something that Julie Su did. That is what every Republican and every Democrat who was present at the time voted for in the Senate. That is what Donald Trump signed into law, and that is what the Republican Department of Labor administered.

Further and importantly, under Ms. Su's leadership, California was the first state to implement safeguards to combat fraud in the Emergency Unemployment Assistance Program. These safeguards were later promoted by the Trump administration, appropriately so, and implemented nationwide.

Those are the facts and they are not in dispute. Julie Su has the experience, she has the qualifications, she has the passion, and she

has the ability to be an outstanding Secretary of Labor. I am proud to support her nomination, and I am pleased to welcome her to our Committee this morning. Senator Cassidy, you are now recognized for an opening statement.

#### OPENING STATEMENT OF SENATOR CASSIDY

Senator CASSIDY. Thank you, Chairman Sanders. Ms. Su, nice to see you. I can actually disagree with Senator Sanders. I can—and as much as I think of—as highly as I think of Ms. Su, as pleasantly as I regard you, I will disagree with Senator Sanders and say with a straight face that I do not think that you should be Secretary of Labor.

The Committee’s priority should be, and put differently, and to use Senator Sanders’ words, we need a Labor Secretary who is fair and unbiased when enforcing the Nation’s labor laws, who should be a leader, who is responsible, experienced and skilled, not an activist, with a demonstrated record of competence as an administrator and a demonstrated record of successfully concluding labor negotiations.

But there are, as Senator Sanders points out, serious concerns about Ms. Su’s record. As Secretary of California Labor and Workforce Development Agency, Ms. Su was the chief enforcer of AB5, a controversial law that dismantled the gig economy, such as Uber, DoorDash, Lyft, and removed the flexibility of these individuals to work as independent contractors. Senator Sanders suggests that all workers will be united in supporting this nomination, but those independent contractors opposed AB5.

Ms. Su expressed herself as merely being an enforcer of a law passed down by others, but I spoke to people in California that said Ms. Su was quite the cheerleader for the law. Now, to be clear, independent contractors, freelancers make their own hours and choose the type of work they wish to do.

They are shielded from forced or coerced unionization that would strip that flexibility away. This has made eliminating freelancing a top priority for large labor unions, those that are endorsing this nomination, who want more workers paying forced union dues. It is important to know, even in California, AB5 is unpopular.

The Governor and State Legislature had to pass over 100 exemptions after it was implemented. In fact, the statutory exemptions are longer than the text of AB5 itself. Fifty-nine percent of Californians voted to further erode the law, which naturally labor unions challenged in court.

In 2019, Ms. Su described employers who oppose California’s overreaching law as not understanding the economy, that, quote, her quote, “we want in California.” As Acting and Deputy Secretary of Labor, Ms. Su is overseeing the Biden’s administration push to eliminate independent contracting via Federal executive rule-making, to the detriment of workers. If finalized, the new regulation would strip 21 million individuals of their ability to be independent contractors, enjoying the flexibility this provides.

The law rejected in California is not a policy that should be spread across the Nation. I also wish to hear Ms. Su’s position on

the Department of Labor's effort to uproot the franchise model. She had said privately that she will not pursue this, but the franchise model employs over eight million Americans.

She has made public comments in support of a new joint employer rule, which would impact the almost 800,000 franchises operating in our communities. Saddling franchisors with liability for thousands of franchise owners that operate as small businesses would be a sure way to destroy the system of franchising, a model which has empowered underrepresented groups in the business community, such as women and people of color, giving them the opportunity to live the American dream, becoming successful small business owners, creating jobs, and lifting other workers out of poverty.

No one is surprised that the joint employer rule is a major priority for large labor unions. It is easier to pressure one company to unionize to increase union dues than to pressure thousands of independent businesses. President Biden promises to have the most pro-union Administration in history.

At her nomination announcement, Ms. Su responded saying, "sign me up for that, I want to help." The priority should not be whatever makes it easier to forcibly and coercively unionize workers while undermining the business model that employs them.

Now, as a Republican, I don't expect to agree with the political positions of a Biden nominee, but we should expect that the heads of our Federal Government are not driven by activism to carry out an agenda for a favored political group.

We need leaders who will responsibly carry out the duties of the office and give all comers a fair shake. It is also the responsibility of the Secretary to be a good administrator. As Secretary of the California Labor and Workforce Development Agency, as Senator Sanders points out, Ms. Su oversaw the Employment Development Department, the EDD, the state's unemployment program.

This program lost over \$30 billion in fraud by waiving fact checking requirements recommended by Department of Labor guidance. The California State auditor reported, "despite repeated warnings, EDD did not bolster its fraud detection efforts until months into the pandemic, and it suspended a critical safeguard."

Under Ms. Su, fraud in California was rampant. Rapper Nuke Bizzle was arrested, pled guilty, and ordered to pay \$705,000 in restitution after posting a music video bragging about how easy it was to defraud the EDD program. The lyrics include, "I gone got rich off of EDD. Ain't hit no more licks because of EDD."

Just last night I was selling peas, and I just woke up to 300 G's." For the record, my interpretation is 300 G's is \$300,000, but he was ordered to pay over 700 G's back in restitution. The rapper was not held accountable because of Ms. Su's oversight, but because he publicly admitted to his crime on a rap video. I ask unanimous consent to insert a transcript of Nuke Bizzle's music video entitled EDD into the Record.

The CHAIR. If you are into rap, we are going to put it into the record.

[The following information can be found on page 185 in Additional Material:]

Senator CASSIDY. This mismanagement does not inspire confidence that Ms. Su can run a multibillion-dollar organization. Now, by the way, former Labor Secretary Marty Walsh developed trust for the business community, as well as labor unions.

Setting his politics aside, Marty Walsh had significant experience in negotiations and managing organizations. That experience is important. But now, with 150 labor contracts expiring this year, the potential of replacing him with someone who has a history of bias and no direct experience handling labor disputes should be concerning to all. I look forward to hearing from Ms. Su as she addresses these concerns of the Committee. With that, I yield.

The CHAIR. Thank you, Senator Cassidy. I now would like to welcome our nominee. Julie Su is currently the Acting Secretary for the Department of Labor, and for the past 2 years has served as the Deputy Secretary to Secretary Marty Walsh. I thank her for being here with us today. And now I turn it over to Senator Padilla from California to introduce her.

Senator PADILLA. Thank you, Mr. Chair and Ranking Member Cassidy, for allowing me to introduce Acting Secretary of Labor, Julie Su. Julie is a proud Californian, and as you will continue to hear, a champion for workers everywhere. Julie is indeed a tireless advocate for—was a tireless advocate for workers in California for years.

Two months after I joined the Senate in early 2021, I had the honor of introducing her to this very Committee when President Biden nominated her to serve as Deputy Secretary of Labor. In the time since her first confirmation, she's proven to be a highly effective Deputy Secretary of Labor, and now Acting Secretary, helping this Administration add more than 12.5 million jobs to the American economy.

That is since President Biden's first day in office. That is more job gains than any previous President in a 4-year term, and that is no exaggeration. And during that time, Julie has also been a relentless defender of the rights and dignity of workers. Job creation and labor protection are not mutually exclusive, indeed they go hand in hand in a strong, responsible economy.

But you see, her service and her track record comes as no surprise once you understand where she has come from. She is a proud daughter of immigrants and a native of California, and she knows personally the sacrifices that many working families face just to make ends meet. Her parents worked hard for decades in minimum wage jobs before establishing and growing their own small business.

They have seen both sides of a paycheck. They instilled in Julie a strong work ethic that led her to take on tough fights for workers, as a labor lawyer, as Labor Secretary for the State of California, and as Deputy Secretary for the U.S. Department of Labor.

During her time as Secretary of Labor in California, she launched the first wage theft is a crime campaign, so that both em-

employers, yes, employers as well as low wage workers, better understood their rights and responsibilities.

As the Secretary of the California Labor and Workforce Development Agency for the then fifth largest economy in the world, now the fourth largest economy in the world, she managed seven major departments, boards, and panels to promote quality jobs, provide workforce training, and strengthen the state's economy.

Did I mention California is now the fourth largest economy in the world? On a personal note, it was a privilege for me to work alongside Julie when she led the campaign in California to help low wage workers understand their rights and feel protected about—when speaking up about labor abuses.

That is critically important and timely. Colleagues, I know that many of you have expressed concern about recent reports about child labor violations in America, particularly migrant children being exploited in the workplace.

Several Senators, including many Republican Senators, just the other day expressed their dismay in HSGAC, calling on the Federal Government to do its part in cracking down on these labor violations and holding people accountable. If we are genuine and sincere about our dismay about the reported child labor violations, then you need to agree that we need Julie Su confirmed as soon as possible.

Her experience and qualifications are unmatched, and I am confident that her service will fundamentally strengthen the American workforce in the years ahead. Confirming Acting Secretary Su to serve as the chief defender of workers and workers' rights in the biggest economy in the world will send a strong and important message that in America workers are valued, workers come first.

As former Secretary Walsh put it, Julie is a lifelong champion of America's workers. And if confirmed as the first Asian American to serve as Secretary in President Biden's cabinet, millions of Americans will see themselves represented in the highest levels of our Government and will take pride in her story as a daughter of working-class immigrants.

Yes, Julie is exactly the pioneering labor champion that workers deserve to lead the Department of Labor now. And I am thankful that President Biden has chosen to nominate her for this position. Colleagues, I urge you to join me in supporting her nomination. Thank you, Mr. Chairman.

The CHAIR. Thank you, Senator Padilla. Ms. Su, the floor is yours. Thanks for being with us.

**STATEMENT OF HON. JULIE SU, TO SERVE AS SECRETARY OF LABOR, WASHINGTON, DC**

Ms. SU. Chairman Sanders, Ranking Member Cassidy, and Members of the Committee, I am honored to appear before you today. I have enjoyed our discussions prior to this hearing about the Department of Labor and its role in meeting the critical challenges of our time.

I am grateful to have my daughter, Li May, a college senior who is graduating from Yale next month, with me today. As a political

science major, she, like I, are aware of how amazing it is for her to be able to be here, not just for me, but to see democracy in action up close.

My other daughter, Anne Ling, is in her sophomore year at Amherst College, where she is on the basketball team and she is taking an economics midterm today, so we thought that it was better for her to stay on campus.

My parents, sister, and brother-in-law are all up early and watching from California. I want to start by thanking President Biden for this incredible opportunity, and Senator Padilla for the very warm introduction.

As Deputy Secretary of Labor, I have worked hand in hand with Secretary Marty Walsh to deliver on the President's promise of an economy built from the bottom up and the middle, out. And the results speak for themselves.

The U.S. economy has added a record 12.6 million jobs. The lowest unemployment rate—it has been less than 4 percent for more than a year, which is close to the lowest it has been in 50 years. All, while labor force participation by prime age workers has returned to pre-pandemic levels. When he announced my nomination for U.S. Secretary of Labor, the President called me the American dream.

My parents believed in it. I benefited from it. And I want to do my part to make sure it is a reality for workers across the Nation. The dream for my family began with my mom's 30-day voyage on a cargo ship to the United States because she couldn't afford a passenger ticket.

Both of my parents came to America for opportunity, and they found it in Provo, Utah where they studied, in Madison, Wisconsin, where my sister and I were born, and then in Southern California, where they settled and built a life. To get through school, my parents worked minimum wage jobs.

When I was 6 years old, my mom got a job for Los Angeles County as an Office Clerk, and this job gave our family two crucial things, financial security and health insurance. It also afforded my mother a pension, which guarantees my mother and father's financial security into their old age.

This level of economic security was impossible for them to imagine as they worked long hours and came home every night with the same first question for my sister me, did you finish your homework yet? But that is the transformative power of a good union job, something I can speak to personally.

While I was growing up, my family also saw opportunity and their shot at the middle class in the form of small business. They owned a dry cleaning and laundromat business and then a franchise pizza restaurant.

For years my dad worked his day job and then head right to the pizza shop, returning home after 10.00 p.m., often with a pizza for my sister and me to take to lunch the next day. I know small business owners are the engines of our economy because I have watched it and I saw it every day.

I also grew up translating for my parents, a common experience in immigrant families. After college, I went to law school and became the first lawyer in my family. My experience as a translator at home shaped my commitment to making the law understandable and meaningful to individuals and communities too often left out of our economy.

Immediately after law school, I spent nearly two decades representing workers. What I learned is that too many people still work full time, year-round, and live in poverty. Too many are denied a fair day's pay for a fair day's work.

At the same time, I learned that working people, when given a chance to organize, to be heard, not only make things better for themselves, but help to bring the American dream within reach to those around them.

If confirmed, I will bring these lessons and experiences to my role as we continue to rebuild the economy. I will work to ensure that hard work pays off for workers and for small businesses, just like it did for my family.

Prior to coming to the Department of Labor, I served the people of California for a decade. I saw firsthand that Government has a meaningful role to play in providing support to the overwhelming majority of employers who play by the rules.

One of these roles is investments in workforce programs to provide training to meet employers' need for skilled workers, and to give more workers access to quality jobs. Over the last 2 years, Secretary Walsh and I worked side by side to expand apprenticeships in in-demand industries and training opportunities for jobs like building roads and bridges, manufacturing semiconductors, building wind turbines, solar panels, and so much more.

Many of these jobs do not require a 4-year degree. We created a national youth employment work strategy and expanded investments in rural communities, tribal communities, and mental health, along with other initiatives to ensure that our Nation's workers are ready to meet the needs of employers in jobs across America.

I have been a leader dedicated to finding and expanding the vast areas of common ground between employers and employees. While my job as Deputy Secretary meant that my primary focus was on the internal operations of the department, Secretary Walsh's leadership style was to involve me as a true partner.

I was with him for the 20-hour negotiation between port—between rail employers and rail unions that took place in our office. And I have traveled from New Orleans to Detroit, from Indianapolis to Nashville, from San Juan to Houston, where I have seen firsthand the strength and creativity of America's workers and small businesses.

Secretary Walsh and I also expanded our compliance assistance for employers and employees, providing real time information through MSHA's new Miner Safety and Health app to keep miners safe, helping employers work with employees with disabilities to put job accommodations in place, and supporting employers to

adopt workplace health and safety programs, including how to find and fix hazards.

I believe that the Department of Labor should make it as easy as possible for employers to keep workers safe on the job. If confirmed, you can count on me to listen to employers' views about how best to do that. So, all of this brings me to today.

President Biden asked me to finish the job that Secretary Walsh and I started. If confirmed as Secretary of Labor, I would work to preserve and expand the American dream for all Americans, and I look forward to working with all of you in partnership on this shared endeavor. I look forward to your questions.

[The prepared statement of Ms. Su follows:]

PREPARED STATEMENT OF JULIE SU

Chairman Sanders, Ranking Member Cassidy, and Members of the Committee, I am honored to appear before you today. I have enjoyed our discussions prior to this hearing about the Department of Labor and its critical role in meeting some of the most pressing challenges of our time.

I am grateful to have my daughter, LiMei, a college senior who is graduating from Yale next month, with me today. As a political science major, she—and I—are aware of how amazing it is for her not only to be here for me, but also to get to see democracy in action up close. My other daughter, AnLing, is in her sophomore year at Amherst College, where she is on the basketball team, and is taking an Economics midterm today, which we decided she should not miss. And my parents, sister, and brother-in-law are all up early watching from California.

I want to start by thanking President Biden for this incredible opportunity. As Deputy Secretary of Labor, I have worked hand in hand with Secretary Walsh to deliver on the President's promise of an economy built from the bottom up and middle out. And the results speak for themselves: the U.S. economy has added a record 12.6 million jobs, and the unemployment rate has been below 4 percent for more than a year—close to the lowest it has been in more than 50 years, all while labor force participation by prime age workers has returned to pre-pandemic levels.

When he announced my nomination for U.S. Secretary of Labor, the President called me “the American Dream.” My parents believed in it, I benefited from it, and I want to do my part to make sure it is a reality for workers across the Nation. The dream for my family began with my mom's 30-day voyage on a cargo ship to the United States because she couldn't afford a passenger ticket. Both of my parents came to America for opportunity, and they found it: in Provo, Utah, where they studied; in Madison, Wisconsin, where my sister and I were born; and in Southern California, where they settled and built a life.

To get through school, my parents worked minimum wage jobs. When I was 6 years old, my mom got a job working for Los Angeles County as an office clerk. That job gave our family two crucial things: financial security and health insurance. It also afforded my mother a pension—something that guarantees my mother and father's financial security into their old age. This level of economic security seemed impossible as they worked long hours and came home every night with the same first question for my sister and me, “Did you finish your homework?” But that is the transformative power of a good union job, something I can speak to personally.

While I was growing up, my family also saw opportunity and their shot at the middle class in the form of small businesses. They owned a dry cleaning and laundromat business, and then a franchise pizza restaurant. For years, my dad would work his day job and then head right to the pizza shop, returning home after 10 pm, often with leftover pizza for our school lunches the next day. I know small business owners are the engines of our economy, because I watched it every day.

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time, I learned that working people, when given a chance to organize, to be heard, not only make things better for themselves, but bring the American Dream within reach to those around them. If confirmed, I will bring these lessons and experiences to my role as we continue to rebuild the economy. I will work to ensure that hard work pays off for workers and small business owners, just like it did for my family.

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Over the last 2 years, Secretary Walsh and I worked side by side to expand apprenticeships in in-demand industries and training opportunities for jobs like building roads and bridges, manufacturing semiconductors, building wind turbines, solar panels, and so much more. Many of these jobs do not require a 4-year degree. We created a national Youth Employment Works Strategy and expanded investments in rural communities, tribal communities, mental health, and other initiatives to ensure that our Nation's workers are ready to meet the needs of employers in jobs across America. I have been a leader dedicated to finding and expanding the vast areas of common ground between employers and employees.

While my job as Deputy Secretary meant my primary focus was on the internal operations at the Department, Secretary Walsh's leadership style was to involve me as a true partner. I was with him for the 20-hour negotiation between rail employers and rail unions in our office. I have traveled from New Orleans to Detroit, Indianapolis to Nashville, San Juan to Houston, where I have seen first-hand the strength and creativity of American workers and business owners.

Secretary Walsh and I also expanded our compliance assistance for employers and employees—providing real-time information through MSHA's new Miner Safety and Health app to keep miners safe; helping employers work with employees with disabilities to put job accommodations in place; and supporting employers to adopt workplace health and safety programs, including how to find and fix hazards. I believe that the Department of Labor should make it as easy as possible for employers to keep workers safe on the job. If confirmed, you can count on me to listen to employers' views about how best to do that.

All of this experience brings me to today. President Biden asked me to "finish the job" that Secretary Walsh and I started. If confirmed as the Secretary of Labor, I would work to preserve and expand the American Dream for all Americans, and I look forward to working in partnership with you on this shared endeavor. Thank you, and I look forward to your questions.

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The CHAIR. Ms. Su, thank you very much. And as the son of an immigrant who came to this country without a nickel in his pocket, I very much appreciate what you have said. It is the story of millions of Americans.

I want you to continue your opening statement in terms of giving us your sense of what your major accomplishments have been, what you are proud of in terms of the work you did in California, what you have done in the last several years here in the Department of Labor, and maybe more importantly, what your vision is.

What do you want to do? What are the problems that you see out there, and what do you want to accomplish as our Secretary of Labor?

Ms. SU. Well, thank you so much, Chairman Sanders. Thank you also for the meeting that we had. I know that we talked about how we need a Secretary of Labor who is going to deliver in this moment, and I really enjoyed our conversation.

Thank you for that question. You have already laid out so clearly what a historic economic recovery this has been. This President says it himself all the time. This is what it looks like to build an economy from the bottom up and the middle, out.

I have been a part of the Administration for the last 2 years, have been very proud to see what good, thoughtful policy and implementation look like. Because of that work in partnership with Congress, our economy continues to defy expectations.

12.6 million jobs represent a mom getting back to work after the disruption of COVID. It represents a veteran coming back from military service and getting a seamless transition into civilian life.

One woman I met is now laying pipes 30 feet underground and doing a job that she never imagined for herself. And when she comes home, at the end of the day, her hands are dirty, but she says her children are really proud of her.

I think that 12.6 million jobs are 12.6 million stories like that.

The CHAIR. Let me ask you this, and you touched on it in your remarks, and something this Committee, I hope, will be able to deal with in a bipartisan way.

You mentioned that there were, in so many words, there are millions of young people who do not necessarily want to go to college, who are prepared to get their hands dirty go out and earn good wages, doing some of the important work that needs to be done to rebuild America. Talk a little bit about your vision of strong apprenticeship programs for our Country.

Ms. SU. There is so much we can do there. Thank you so much, Chairman Sanders. And we have been doing over the last 2 years at the Department of Labor. We have dramatically expanded apprenticeships across the country.

We have, just in the last 2 years, over 4,600 new apprenticeship programs representing 11,000 or so employers. These are opportunities to make sure not only that jobseekers, and in particular young people, get the high quality skills training that they need, but that employers who are looking for skilled workers to do the many things that we are doing right now, rebuilding roads and bridges, and ensuring broad—internet accessibility to communities all across the country, and making sure that every family that turns on the faucet gets clean drinking water out of it, building coast to coast electric vehicle charging stations.

All of this work needs workers. And employers have been saying that, what are we going to do to make sure that we have the workers that we need? And apprenticeship programs are a big part of that answer.

Our overall workforce development system is a big part of that answer. And my team has heard me say this in the Department of Labor many, many times. We can build physical roads and bridges. We also have to build the roads and bridges that connect people to the jobs they need. That is what this system will do.

The CHAIR. What I am hearing from you, as Secretary of Labor, you are prepared to work with this Committee to greatly expand apprenticeship programs in this country. Child labor is an issue, as Senator Padilla mentioned a moment ago, of great concern. You have some experience in that issue. Tell us what you would like to accomplish to make sure that kids in this country are not exploited by unscrupulous employers.

Ms. SU. Thank you very much for that question too, Chairman Sanders. As we have seen, there has been increased attention to the truly horrific examples of child labor that we have seen of late.

To be clear, we are not talking about a young person who is getting their first summer job at the local retail store, working the cash register, where they are learning how to show up on time and work with customers.

In the most recent case that the Department of Labor found, it was over 100 children as young as 13 working in meat packing facilities on the nightshift, doing cleaning work.

I think we can all agree that is exploitative child labor that we do not want to see, and the Department of Labor is not only continuing to enforce the law, we are also leading an inter-agency task force across the Federal Government to make sure that we are exchanging information as needed and bringing all of our resources to bear.

That is another thing I would look forward to working with this Committee and Congress on, if asked.

The CHAIR. Okay. Thank you very much. Senator Cassidy.

Senator CASSIDY. Thank you, Ms. Su. Let me just first express admiration for your incredible personal story. And all of us are one or two generations from a story like that, and yours is more immediate, so let me just first express that.

Speaking about policy issues, though, AB5 is controversial. In the many quarters in California, it is unpopular, and you supported and helped to implement it. In 2019, you described those who do not want to comply with the overreaching law, as not understanding the economy, that “we want in California.”

What we want is kind of a royal, we. And it is important to note that the Legislature had to go back and pass almost 100 exemptions. So, I say that because I think one thing that concerns us, would you commit to not trying to force an AB5 type regulation upon the rest of the country, that which was done in California?

Ms. SU. Thank you for the question, Senator. The short answer to your question is yes. The context to your question is that the ABC test in California was first adopted by a unanimous California Supreme Court decision that was written by a Republican appointed chief justice.

Senator CASSIDY. Now, isn't it fair to say that this greatly, AB5 greatly expanded that decision and covered workers that were not necessarily covered by that decision, but went far beyond?

Ms. SU. Well, following that decision, the California Legislature did pass AB5 that codified the test. To be extremely clear, I was not part of the Legislature. I have never been a legislator. I have tremendous respect for what you all do. I have not done that job. And so, the ABC test was codified in California.

It is not the only state that has it. But when the Department of Labor issued our rule on independent contractor versus employee classification, we explicitly did not include the ABC test in our rule.

That is why I answered, yes, to your question. Only Congress can adopt the ABC test. I cannot—

Senator CASSIDY. Well obviously, it could be done through a rule that gets at the same point, even if it does not include the ABC. So, is that an equal kind of commitment to not attempt to do through a rule that which may be absent ABC, but otherwise has the same sort of effect?

Ms. SU. I will commit with absolute certainty and commitment that I will always have full faith and fidelity to Federal law, to the laws you pass—

Senator CASSIDY. Now, that is different because I can promise you, I have learned you give me a smart attorney and they can find all sorts of interpretations of Federal law. Up is up and down is down. But no, sometimes up is down.

Let me move on, though, just because I have got limited time. When we met, you said you would not pursue changes to the joint employer regulations, if confirmed. We know this is a priority for labor unions. Could you again, and for the record, give assurances that you will not pursue changes to the joint employer rule as Secretary of Labor?

Ms. SU. Senator, I know you mentioned the concern about franchisees and franchisors, and we enjoyed our conversation. I mentioned that my family, my parents had a franchisee business. The reason my sister and I were able to go to college—

Senator CASSIDY. I got limited time—

Ms. SU. Okay. So, I understand the importance of the model. There is not a joint employer rule on our regulatory agenda. It was not on our agenda that came out last year.

Senator CASSIDY. Is that to say it would not be on the agenda at a later point?

Ms. SU. It will not be on our agenda that comes out in June, correct, Senator.

Senator CASSIDY. Next, Ms. Su—thank you. There are about 150 labor contracts coming up, representing 1.6 million workers expiring this year. And one of the concerns about your nomination is that you lack direct experience negotiating and handling labor disputes. And so, can you point to any experience negotiating successful outcomes from labor disputes?

Ms. SU. Thank you very much, Senator, for that. So, I did work very closely with then Secretary Marty Walsh on the negotiations that concluded on our part in September that involved the rail unions and the rail employees.

Senator CASSIDY. Now, is it fair to say that it actually took Congress and the President to step in and conclude those negotiations? Those were not successful, fair?

Ms. SU. When we concluded our 20-hour negotiation, a tentative agreement was reached. It was reached then averted what everyone was then saying would have been a national disaster. It is true that there were other parts of the process, as there always are, in collective bargaining negotiations at the table.

The other thing, to your question, Senator, is that one of the other big issues that is looming is what is happening at the West Coast ports, the ports of L.A. and Long Beach, in my hometown, involving parties and people that I have known for some time, and I have been actively engaged in that conversation as well.

Senator CASSIDY. Now, it is fair to say, though, that those seem to be breaking down. There was a press release in February with optimism, but subsequently there have been other reports not quite so optimistic. So, it would be a stretch to say it is a successful process, correct?

Ms. SU. They are not concluded yet, Senator. That is true. My role, if confirmed, would be to, when asked, help make sure that the parties stay at the table, that they are able to grapple with some of the hard issues that they face, and that if asked to come assist, I would do so. I would not give up on those negotiations at this time, Senator.

Senator CASSIDY. Okay. And, Mr. Chair, I ask unanimous consent to enter into the record a letter concerning the ongoing disruptions of the West Coast ports to President Biden from over 300 retailers, urging him to step in and negotiate between the union and management to prevent disruption to the supply chain and American consumers.

The CHAIR. Without objection.

[The following information can be found on page 198 in Additional Material:]

Senator CASSIDY. With that, I yield. Thank you.

The CHAIR. Thank you.

Senator Murray.

Senator MURRAY. Acting Secretary Su, it is great to see you here today. Thank you so much. You have just been a reliable and a fair partner since your confirmation.

I really look forward to continuing to work with you on implementing bipartisan priorities that Members of this Committee on both sides of the aisle passed and just last Congress, like the SECURE 2.0 and Mental Health Parity and the Pump Act which helps make sure working moms have the simple right to a break and a place to pump at work.

Thank you for the work you have done. Let me ask you, as HELP Committee Chair, I led a group of Senators commenting on the department's proposed rule regarding employee classification, and I have been extremely frustrated regarding all the handwringing from some of my colleagues who are misrepresenting this issue.

DOL explicitly states in the proposed rule that the Fair Labor Standards Act does not have an ABC test like the test in California. DOL has been very clear. It does not have the authority, as you just stated, to implement an ABC test.

That is something that only Congress can do, and everyone out there fearmongering about an ABC test knows this. In fact, and several of them have put out statements acknowledging that after the proposed rule was issued in the fall on October 11th of last year, Lyft stated this about the independent contractor rule, and

I quote, “importantly, this rule, No. 1, does not reclassify Lyft drivers as employees.

Two, does—employers—and two, does not force Lyft to change our business model. This approach previously applied to Lyft and app-based companies and did not result in reclassification of drivers.”

On December 14th of last year, the International Franchise Association submitted a statement saying, and I quote, “IFA applauds the proposal for its express recognition that the ABC test does not apply to the Fair Labor Standards Act, appropriately clarifying that the franchise relationship falls outside of its coverage.”

Chairman Sanders, I would like unanimous consent to introduce both the statement from Lyft and the statement from the International Franchise Association that I have here with me into the record.

The CHAIR. Without objection.

[The following information can be found on page 204 in Additional Material:]

Senator MURRAY. Thank you, Mr. Chairman. Acting Secretary Su, do you agree with those statements that I just read from Lyft and from the IFA?

Ms. SU. Thank you very much, Senator Murray. I mean, Lyft knows their business model. I would definitely confirm your point, and what I said to the Ranking Member, that our rule does not include the ABC test.

It cannot include the ABC test because only Congress can adopt that test. And our rule is meant to be in full compliance with the Fair Labor Standards Act and decades of Federal law on the issue.

Senator MURRAY. Is it true that DOL has already stated it does not have the authority under the FLSA to implement an ABC test absent an act of Congress?

Ms. SU. That is correct, Senator.

Senator MURRAY. Good. I think that is pretty straightforward and I hope that clears it up for all of our colleagues who are here. Let me turn to something else. At the end of last year, I was able to work with the bipartisan and bicameral leadership of the three other pension committees to pass a huge bipartisan retirement package in SECURE 2.0.

DOL is going to oversee the implementation of a considerable number of the provisions, like establishing new emergency savings accounts, which I believe will help expand coverage, creating a retirement savings lost and found to make sure that workers have access to the money they saved at past employers, and many other priorities.

If confirmed, will you commit to working with me and all of my colleagues across the aisle to ensure that the provisions of SECURE 2.0 are implemented correctly and in a timely manner?

Ms. SU. I absolutely will, Senator. And I still hastily answered the first question. I didn't also first say thank you for your leadership as Chair of this Committee when I came as Deputy Secretary. And also, you mentioned the Pump Act, and as a mother who

breastfed both of my children, had to pump at work, I want to thank you for that, too.

But yes, as the SECURE 2.0—of course we would—we are going to implement it and look forward to working with you on it. The law does require the department to establish a lost and found program, as you mentioned, to make sure that people, Americans who have saved their entire lives for retirement are able to access those benefits when they retire.

Sometimes people change jobs and they lose track or maybe they forget, and that is why a program like that is so important. The Department of Labor, actually under our Employee Benefits Security Administration, or EBSA, launched a similar program in 2017 that was really more of an individual case by case one.

Through that work it's recovered \$6 billion of retiree benefits for retired Americans. And so, SECURE 2.0 is going to let us do that for all retirees, and we look forward to working with you to make sure that becomes real.

Senator MURRAY. Well, thank you very much. And thank you for all of your work as Acting and as Deputy Secretary. Look forward to working with you in your new position. Thank you.

Ms. SU. Thank you, Senator.

The CHAIR. Senator Romney.

Senator ROMNEY. Thank you, Mr. Chairman and Deputy Secretary Su. We now know that unaccompanied minor children are being trafficked in illegal labor markets across the country.

Your department wrote last year that violations have increased by some 70 percent since 2018. Was that communicated to the White House prior to this year? Is that something you have communicated them, that this is a major, major problem?

Ms. SU. Thank you very much, Senator, for the question. As we discussed a little bit earlier today, we are seeing—

Senator ROMNEY. No, no I have a very specific question, and very limited time. Did you communicate that as a department to the White House prior to this year?

Ms. SU. I don't know the answer to that question, Senator.

Senator ROMNEY. Okay. Thank you. My second question, which is during your last 2 years at the department, the public calendar shows that you had a standing meeting with unions on a regular basis.

But until 6 weeks ago, you had not met with any business associations. Unions on a regular basis, but not with business associations. I guess it is really hard to understand how when we think about putting two groups together and getting to the compromise, negotiating, how we could have any confidence that you would be seen as an unbiased, neutral arbiter, but instead would be biased in such a way that businesses associations are not going to be able to trust the Department of Labor to play a meaningful role. But of greater concern to me is your record in California.

This is something I have raised with you before, but the fact that under your lead, unemployment insurance payments in California of some \$31 billion went to people who were basically receiving

money on a criminal basis, illegally receiving money from the Federal Government—\$31 billion.

That is about as much as we provided in military aid to Ukraine. That is almost twice the total budget of the Department of Labor. Under your leadership in California, \$31 billion was fraudulently paid out.

Now, there is a principle in all sorts of enterprises known as the Peter principle, which is people get promoted to a point where their competence is no longer been established. In this case, your record there is so severely lacking, I don't know how in the world it makes sense for the President to nominate you to take over this department.

To work behind Marty Walsh is one thing and to learn from him. But you haven't had experience negotiating a major deal between unions and management, and your leadership of an enterprise resulted in \$31 billion of fraudulent payments. What am I missing?

Ms. SU. Senator, thank you, on both those points. In terms of business leaders, I think that business leaders and industry associations who have worked with me would paint a different story about both my openness and my desire—

Senator ROMNEY. But you have got to meet with them, for them to do so. If you haven't met with them for the first 2 years until 6 weeks ago, and you have met with unions regularly, that sends a pretty clear message to those business leaders.

Ms. SU. 100 percent that relationships are very important. I believe that I have them, and I would be happy to talk to you more about them at any time. But as I said in my opening statement, I think anybody who knows my record would say that I am someone who is communicative, transparent, and really sees that there is tremendous areas of common ground between employers who are job creators, and employees who do the work.

Senator ROMNEY. That is as accurate as it is irrelevant to your competence to be able to lead a negotiation fraught between unions and management. Help me with a \$31 billion.

Ms. SU. Thank you for that, Senator.

The vast majority, over 95 percent of the fraud in the unemployment system, not just in California but across the Nation, was in the Pandemic Unemployment Assistance Program, a program that was passed by Congress to meet a very, very urgent need, an unprecedented crisis that was viewed to require an unprecedented solution.

That pandemic unemployment assistance program did not have the safeguards that regular unemployment insurance does.

Senator ROMNEY. You set those safeguards. There are guidelines in California you chose to waive to get that money out, \$31 billion. You realize what \$31 billion would have meant to the people in Ukraine, had we been able to double our military support there?

Ms. SU. Yes, yes. And that is why I—fraud, waste and abuse of any kind is completely unacceptable. That is why in California, as soon as we knew that there was fraud happening, I shut the front door to that fraud.

I made changes to the program that would ensure that people couldn't get in the front door. But to be very clear, the state auditor, who did many audits, never said—never found that my eliminating eligibility requirements resulted in any of the pandemic unemployment situation that we are talking about.

Senator ROMNEY. I am sorry, my time is up. The buck stops at the top. You are the person running UI. You are the one that decided to waive the guardrails—\$31 billion. The idea of promoting a person who has had that experience to a position of leadership of the entire Department of Labor makes no sense at all. Thank you.

Ms. SU. Respectfully, Senator, if I may. Just on the unemployment insurance fraud issue, California's unemployment insurance fraud rate, which was different from the pandemic unemployment assistance, was really about comparable to what it has been before.

The high rates that you are talking about were in a program that did not have the safeguards in its design.

The CHAIR. Senator Baldwin.

Senator BALDWIN. Thank you, Mr. Chairman. Welcome, Acting Labor Secretary Su. I want to revisit a couple of the questions you have gotten from my colleagues across the aisle, because I didn't hear you get an adequate opportunity yet to answer.

My colleagues have suggested that you are inexperienced in negotiating labor contracts. However, as you mentioned, you stood shoulder to shoulder with former Secretary Walsh for those marathon negotiating sessions to get to a deal to avert a national rail strike and economic shutdown.

Further, your nomination is supported by both the Teamsters, representing 340,000 UPS workers, for whom the largest private sector collective bargaining agreement expires in July of this year, and the port of L.A., whose 15,000 workers facilitated \$200 billion in trade last year.

The collective bargaining agreement for these workers expired in July 2022, and your experience and relationships with the L.A. port will be invaluable in ensuring both sides reach a fair agreement and avoid supply chain disruptions.

Ms. Su, isn't it true that you are significantly experienced and qualified to negotiate vital labor agreements?

Ms. SU. Thank you so much, Senator. I appreciated our meeting and I appreciate that question. And yes, I believe that I am.

Senator BALDWIN. Thank you. To hear some of my colleagues tell it, you are also writing regulations with no regard to the impact on small businesses. Your track record, not to mention your life story, tells a very different story.

Not only are you endorsed by your hometown's Chamber of Commerce in Los Angeles, but you have worked with National Chamber and many industry associations throughout your tenure.

Can you talk a little bit about some of the initiatives you have had, that you have worked on as Deputy Secretary, and how you proactively sought out and incorporated the input of the industries involved in those initiatives.

Ms. SU. Yes. Thank you so much for that question, Senator. Over my tenure as Deputy Secretary, again, working very closely with Secretary Marty Walsh, we spent a lot of time talking to employers, individual employers, industry associations, about—especially about their workforce needs.

How are we going to match the needs that employers have for workers, with the desire that workers have for good jobs, for better jobs, and for training programs that will align the two things.

I sat down in Michigan with both employers and unions about what it is going to look like as we build more electric vehicles, for example. I have sat down with employers and, across the country around how we can support them in expanding their apprenticeship programs, or creating, not just employer by employer training, but looking at the sector as a whole.

The needs that we have today require more than just matching between employers and job seekers, but really building capacity in communities to do training on a sector wide basis. And sector industry leaders representing employers are really key to that, which is why I have met with them and why those who do know me will say that I am very much committed to working in partnership, understanding their needs and their challenges, and figuring out what Government can do to help meet them.

Senator BALDWIN. Thank you. I am also the incoming new chair of the Labor Health and Human Services Subcommittee on Appropriations, which drafts annual legislation to fund the Department of Labor.

One point of significant bipartisan cooperation within the Labor HHS bill has been support for increasing funding for apprenticeships. Over the last several years, we have seen funding increased from \$90 million in the year 2016 to \$285 million in last year's omnibus.

I would like to hear you talk a little bit more about how that funding has been used at the Department of Labor, and how it might help employers, and especially smaller communities like we have so many of in Wisconsin to—how it would help employers find workers with the skills that they need.

Ms. SU. I so appreciate the chance to talk about this. Thank you, Senator. So, we are very proud of the work we have done in apprenticeship programs. We have done it in multiple industries in terms of expanding.

Cybersecurity is one of those in-demand industries with high paying jobs where there is a need for skilled workers. In just a 6-month period, we were able to expand apprenticeship programs in cybersecurity to the tune of 16,000 individual apprentices, bringing the total across the country to 43,000. Teacher apprenticeships.

When we came in 2021, there were two states that—teacher apprenticeships, now there are 17. In terms of your question about smaller communities. Actually, in Wisconsin, we have a grant. It is our women apprenticeships in nontraditional occupations grant.

Is a way of looking at all these good jobs that we are creating should be available to all communities, and I have seen that when

you give women a chance to do work that they did not imagine doing, they can change their own lives.

They can change a family's lives. And we do have a grant just like that with the Wisconsin Regional Training Partnership, which is going to help at least 950 people in a small community to join apprenticeships and apprenticeship programs.

The CHAIR. Senator Tuberville.

Senator TUBERVILLE. Thank you, Mr. Chairman. Ms. Su, thanks for being here today. Now, you have a long history of activism on behalf of organized labor. I think that is understood, but very few examples of impartiality. You have been biased.

For instance, you wrote in 2005 that businesses perpetuate economic injustice and use abuse and exploit poor people. I have some legitimate concerns that you won't be fair and neutral, if confirmed.

I am not confident that your ability to act as a neutral and fair Secretary won't be compromised by a personal view. So, Ms. Su, your nomination is opposed by at least 32 business groups and coalitions, and the primary concern we are hearing is that your confirmation would be devastating to a wide number of industries and businesses.

I am not an expert in labor law, but I have to say this much opposition concerns me. You have tried to assure critics that you would wear a different hat and be less of an activist, but I find that very hard to believe with all this opposition.

Can you explain that and how you are going to overcome that?

Ms. SU. Thank you very much, Senator. I am not sure if I should still call you coach. I know you said that I could—

Senator TUBERVILLE. Sure, you can. I have been called worse.

Ms. SU [continuing]. In our meeting but thank you for that. I also want you to know that I did tell my daughter that you said that she could come see you to talk about the intersection between athletics and education, both of great interest to her.

I appreciate that question. I do believe that employers and employer associations that have worked with me could help to round out the perception of those who have not yet had a chance to work with me.

I also have shared and will say again, my own personal background has given me a front row seat to the needs, the issues, the struggles, the challenges, the difficulties, and the incredible work of small business owners who are the lifeblood and the job creators in all of our communities.

My family now, my cousins, my aunts have businesses in California. So, I have not only the personal perspective about how important it is, I think my record really demonstrates, especially in my work since I have been in Government, how to build big tables, bring employers and employees together, labor and unions together.

We have been doing so much of that just to build training partnerships, understanding that if you build a training partnership where participants know at the beginning of training that they are going to end up with a good job at the end of it, that is a very sim-

ple way to design a program that is going to work, and is going to let you recruit people to it, and have people want to stay in the program.

Senator TUBERVILLE. Following-up on Senator Romney's question, have you made an effort to meet with non-union businesses and groups in your last 2 years?

Ms. SU. Absolutely, Senator. Yes.

Senator TUBERVILLE. How is that going?

Ms. SU. I think it has gone well. I mean, I think, again, employers are both excited about the opportunities created in this Administration.

We have seen that it's not just the historic Federal investments that are going to bringing manufacturing back to the United States and all of the infrastructure investments. It is not just Federal investments.

There have been hundreds of billions of dollars in private investments. It has been called crowding in to meet the moment, to take advantage of what the Federal Government is doing. That is the President's vision for how we reimagine industrial policy and create an economy that works for everybody.

Senator TUBERVILLE. Let me get my last question real quick. You have consistently worked to oppose and block efforts to stop illegal immigration. You reportedly sent a memo to staff during your time as California labor commissioner instructing them to turn away any Immigration and Customs Enforcement agents who show up at labor offices without a Federal warrant.

I am concerned about the fact that our Southern border is wide open. I think we all are, most of us, and the negative impact that this is having on our Country. Could you provide that memo to us, to this Committee?

Ms. SU. Thank you very much, Senator. I—

Senator TUBERVILLE [continuing]. Do you remember it?

Ms. SU. I don't remember it—I don't remember it well. I don't have access to it at this time.

I do want to say, Senator, again, I think that my background is really about a commitment to the dignity of work and of the importance of making sure that workers have the protections that they need when they go to work so that they get a fair day's pay for a fair day's work, and that every worker who walks into the workplace comes home healthy and safe at the end of the day.

I think that regardless of where you live in the United States, that is part of the basic promise of this country. And we want all workers to be able to put food on the table at the end of the day and put a roof over their heads, and that is the record of work that I have done in my career.

Senator TUBERVILLE. Thank you, Mr. Chairman.

The CHAIR. Thank you. Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman. Good to see you. Ms. Su, thank you for coming and spending some time with me talking about issues that are important to Connecticut.

I may get to one of those if I have time, but first, I really wanted to give you an opportunity to expand a little bit on the answers that you were giving to Senator Romney. California is a really big state, and so every number coming out of California is going to be a big number.

When you look at this, question of unemployment insurance fraud, right, \$100 billion is a lot of money. But, I was looking at the percentages from other states when it came to insurance fraud. And there are some big numbers, too.

The number in California is about 11 percent of benefits paid. But, in Tennessee, it was 15 percent. In Alabama, it was 14 percent. South Carolina, it was 14 percent. In Kansas, it was 27 percent. Every state had issues here.

But what seems important to me is that you led when it came to implementing reforms, so much so, that as I understand it, the Trump administration ended up adopting some of the reforms that you put in place.

It didn't sound like you got the chance to fully give the Committee the information on the reforms that eventually became standard practice or recommended to other states, and just wanted to let you finish out that answer.

Ms. SU. Senator, thank you so much. And thank you for meeting with me prior to this hearing as well. First, let me just state again very clearly that there is no place for fraud, waste, or abuse in systems like this.

The criminal enterprises that took advantage of the lack of eligibility requirements built into the pandemic unemployment assistance program made—it was not only bad because it was a fraud on taxpayers, it was also bad because it made it even more difficult for states to actually pay out claims to those who were eligible.

It was—there was really—it was really a horrible situation that there was so much fraud on the system. But you are absolutely right, Senator, that once we saw that it was happening, and it happened because the pandemic unemployment assistance program, and the state auditors said this too, it did not have safeguards in place at the get go.

It was meant to go out quickly because we were facing a massive crisis in which people were out of work, through no fault of their own, in unprecedented numbers. So, it allowed people to self-attest that they were eligible.

It had a minimum payment amount—a minimum payment should be paid. It had an automatic backdating in it. So, it was if you applied in August but you were unemployed as of February, you got all of that, the amount back to February.

Those were built into the program that states worked mightily to stand up very quickly on outdated technology and the rest, which is well known. Once—as California Labor Secretary, one of the things that I did was I stopped the automatic backdating, and that is believed to have stopped over \$60 billion worth of fraudulent payments that could have gone out.

After I did that, the Department of Labor under the prior Administration did issue a directive to all states to do the same thing.

Since I have been Deputy Secretary, what we have been doing at the Department of Labor is really trying to learn from those lessons to make sure they are never repeated again, to work in collaboration with states to be clear about the things that we should do on a national level to fight that kind of fraud.

That kind of fraud went from state to state. But also, to shore up the unemployment insurance safety net so that in the next crisis it can really deliver.

Senator MURPHY. Thank you for that response. I wanted to make sure we got as much of that on the record as possible. I am going to ask you a second question and just ask a commitment from you to work with me because I am running out of time.

You and I talked at length in my office about the challenge we have with the defense industrial base in Connecticut. We have to hire 5,700 new workers in Connecticut and Rhode Island at Electric Boat to meet the demands of the submarine fleet.

We are producing more submarines than ever before. That is a real challenge for us, and it is a challenge we can't meet without assistance from the Department of Labor for apprenticeship programs and workforce training programs.

I just want to ask for your commitment to work with me and other Members of this Committee who are going to need DOL's help and need the Secretary's help directly in making sure that we have enough resources to train all the people we are going to need in order to fill the needs of our defense manufacturing base in Connecticut and throughout the country.

Ms. SU. 100 percent, Senator. Yes.

Senator MURPHY. Thank you. Thank you, Mr. Chairman.

The CHAIR. Senator Mullin.

Senator MULLIN. Thank you. And thank you for being here today. It was a pleasure meeting you. I do have to kind of address something beginning. Our Chairman came out with a very strong comment, daring everybody, basically, that if they disagreed with your qualifications to say it with a straight face.

As always, he talks about starvation wages in which I thought, man, he is really setting the tone here. But then I am just starting to figure out, that is just your personality, no offense there, but this is your personality.

But then I still understand—I don't understand the lack of knowledge, basic knowledge, when this is the health, education, labor, and pension, the basic knowledge to understand what labor costs really is.

As a business owner who has employed truly hundreds of people, labor is always going to have a beginning wage. And everything else goes from there. So, you can't call the beginning wage a starvation wage if there is always going to be a beginning wage.

I don't care what industry you are in, it is always going to start in something, and the product that industry is making is going to adjust, whatever the cost of that final product is, is going to be delivered to everybody.

But that is actually what an apprenticeship program is too, because that is supposed to get people into the program to start working toward that. But yet apprenticeship programs themselves can actually be kind of restrictive because a lot of people that are entering these workforces that are going to maybe you start requiring apprentices, they didn't want to go to college.

But yet we keep expanding apprenticeship programs from 1 year to 2 year to 3 year to some apprenticeship programs of 4 years and longer. And individuals are like, look, I didn't want to go to college, so I entered this workforce to begin with.

We have got to think about what we are talking about when we start expanding apprenticeship programs. But it also understands the lack of people that are running these programs, running the industry of actually understanding what business is like.

Which is why so many of us—while you are a—seems like a super nice individual, and we had a great conversation, that doesn't mean being nice qualifies you to be Secretary of Labor.

Because if you don't have that basic understanding of knowing what it is like, then how can you relate and truly represent both sides? For instance, have you ever been an employer of a business? That is yes or no, I am sorry.

Ms. SU. I have not, Senator, but my parents have. And my family.

Senator MULLIN. Have you ever done it?

Ms. SU. I have not.

Senator MULLIN. You don't understand what it is like, how hard it is to actually sit awake at night trying to figure out how you are going to man a job when you don't have the people there and, you are going to have to do it.

Have you ever created or balanced a budget for business? Yes, or no? These are yes or no, real quick. I want to run through them as quick as I can. I am going to take that as a no. Have you ever acquired or sold a business?

Ms. SU. I have not, Senator.

Senator MULLIN. Have you ever had to raise capital in order to launch a new business?

Ms. SU. I have not, Senator.

Senator MULLIN. Which goes back to one of your comments that you wrote about that I will get to later. Have you ever had to provide quarterly reports to shareholders?

Ms. SU. Senator, I have not done these things—

Senator MULLIN. I am just going—this is qualifications because the Chairman said, can you actually say with a straight face if you are qualified on this, and these are points we are trying to make. Have you ever decided which health insurance plan you are going to offer to employees?

Ms. SU. Senator, if I may, if I am confirmed—

Senator MULLIN. I am going through these because I am making a point. The Chairman is one the one that threw down the gantlet and said, I dare anybody to say this with a straight face. I am just trying to make a point here. So, have you ever—have you ever—

Ms. SU. I have not chosen a health insurance plan for—

Senator MULLIN. Have you ever had an employee file a worker's comp that you had to either work with or fight against?

Ms. SU. As an employer, no, Senator.

Senator MULLIN. Do you know what a worker's comp experience mod is?

Ms. SU. I do, based on my work in Government—

Senator MULLIN. But you have never had to actually apply it to your bottom line to figure out what your profit margins and bottom line is going to be. Have you ever filed taxes on behalf of business?

Ms. SU. I have not, Senator.

Senator MULLIN. Have you had to comply with Federal regulations on a small business?

Ms. SU. No.

Senator MULLIN. It is really hard to understand what it is like when you are getting mandated and regulations are coming at you. Have you ever—have you ever had your business model threatened by the Federal Government's overreach of regulations?

Ms. SU. No, Senator.

Senator MULLIN. See, I have. And that is what drove me here today. And when you have someone like yourself that makes a comment like this, like you did in 2005, says, the very definition of a corporation as an entity that is created to permit maximum income and designed to insulate individuals who profit from the liability. That is your opinion about a corporation. Do you still stand by that?

Ms. SU. Senator, I don't remember when I wrote that, but the context in which I wrote it, I don't—

Senator MULLIN. It doesn't—there is no context in which this can be taken out of context. Do you still believe that corporations are just insulation to shield individuals like myself? Because we don't have any liabilities and we have no financial liabilities at all as a corporation, as an owner at all. I mean, I don't understand that. But do you still stand by that comment, yes or no?

Ms. SU. I will tell you what I do stand by, Senator—

Senator MULLIN. No, no, I just need a yes or no. I am about out of time and I have got one more question. Do you stand by that comment?

Ms. SU. I do stand by the important role that both employers and employees bring to our economy—

Senator MULLIN. Do you believe that American society was built on white privilege and systemic racial subordination to what you have written also?

Ms. SU. Can I—can I say what I do stand by, Senator?

Senator MULLIN. No, I just—those are your comments. I am asking you, do you still believe on both those comments? You wrote those in your comments. It is just, do you stand by those comments or do you not? You wrote them. Do you stand by them or not?

Ms. SU. I believe that we can't—

Senator MULLIN. No, ma'am. I am just—do you believe what you said? Is a yes or no.

Ms. SU. I will say this, Senator. I think it is a longer conversation.

Senator MULLIN. But you can't answer heck no on this, Ms. Su, then that is a huge problem, because just like our Chairman sometimes lead with a gavel with a biased opinion toward labor, you also will lead the Secretary—as Secretary of Labor or Labor Department with bias because you cannot say those type of statements like that and represent all sides. With that, I yield back.

The CHAIR. Senator Kaine.

Senator Kaine. Thank you, Mr. Chair. And Secretary Su, thank you for meeting with me earlier and talking about issues that I am concerned with in Virginia, the tight labor market, seasonal visas for a lot of our seafood workers.

I really appreciate it. I look forward to supporting you and working with you on those issues. I just want to summarize some topics, and I want you to tell me if I am wrong at all in summarizing what I have heard before.

Business interaction, Senator Romney asked—said that you had only started to meet with business associations recently, but during your 2 years you met with businesses repeatedly, correct?

Ms. SU. Yes.

Senator Kaine. Chambers of Commerce, United Airlines, businesses connected with ports all around the country, railroad industry. So, you have had dialog with businesses constantly during your 2 years. Isn't that accurate?

Ms. SU. That is correct.

Senator Kaine. Business groups like the Los Angeles Chamber of Commerce have said about you, Secretary Su “has worked with the Chamber numerous times to bring a reasonable, balanced voice to labor issues.” That is one of the biggest chambers of commerce in the United States. Isn't that correct?

Ms. SU. I don't know for a fact, but yes, I do believe that is what they said. Thank you.

Senator Kaine. The Society for Human Resources Management, which manages H.R. professionals, businesses around the country, they support your nomination.

I think in business interaction, it seems like you have been engaging in the dialog with businesses, to Senator Mullin's point, you haven't run a business. We have cabinet members who have. I think cabinet members should bring diverse experiences to the table. You bring a set of experiences.

You can't have all experiences, but other members of the cabinet—Gina Raimondo, Secretary of Commerce, had a very active role in the private sector before her public service career. With respect to the concern about independent contractors, folks are concerned with this particular California AB5 law.

It began with the California Supreme Court decision. You have never been on the California Supreme Court. It was codified by the

California Legislature. You were not a member of the California Legislature.

You were obligated to implement state laws, just as you would be obligated to implement Federal laws. In your capacity as Deputy Secretary of Labor, you have issued a regulation in this space that does not incorporate the ABC test for determining who is an employee and who is an independent contractor.

Major groups that were concerned with AB5, like Lyft and the Franchise Association, have praised the Federal standard that you have issued as, thank goodness this standard does not include the thing we didn't like about the California standard. So, there is a PR campaign, don't California, Arizona, or don't let Julie Su California our workplace.

Very explicitly the independent contractor rule the Department of Labor is issuing now is not the AB5 rule, so the attacks on the AB5 rule really are not relevant to what the Department of Labor is doing today.

On the unemployment insurance issue, I agree with Senator Romney and others, fraud is outrageous, and especially people taking advantage and defrauding a program that was designed to help the Nation out of a crisis. But many states, as Senator Murphy said, had fraud rates much higher.

For people who just didn't focus on this, let's be really clear about what this fraud was. I am going to give you some statistics. The week that ended March 14, 2020, which was the last pre-pandemic week, 278,000 Americans filed unemployment insurance claims. The next week, it was 2.9 million Americans. The week after that, it was 5.9 million aware Americans.

The week after that, it was 6.1 million Americans. So, our Nation's employment agencies that have been used to dealing with 278,000 claims a week nationally, we are now dealing with 20 times that. And what did Congress do? We did three things that added to your workload, even beyond that explosion of claims.

We first said you have to give benefits for more weeks. We second said, you have to increase the amount of benefits to get us through this economic catastrophe. But the third thing, and this is where all the fraud was, in every state including Virginia, we made you pay unemployment benefits to a whole class of people who are not part of the unemployment system, independent contractors, gig workers.

Congress required you to do that. People who weren't in the California system, who weren't in the Virginia system, and we did it to save the economy. 95 percent of the fraud in California was in that program, and that 95 percent number was probably the same in virtually every state.

It was Congress that required you, at a time when your workforce was low because unemployment claims were low. But now unemployment claims were expanding 20-fold. Just in your normal business, we made you do three things, including one thing, was adding people who hadn't been in the system at all, and some scammers took advantage of it.

It infuriates me when scammers take advantage of seniors, when scammers take advantage of something like that. But you were dealing with a reality that—you can blame Congress for this. But I can be honest about how this problem got created.

I am upset with the fraud, but I am not upset that Congress did what because it helped this Nation get through the worst public health emergency and one of the most serious economic challenges in the last 100 years.

I think you did a fine job under challenging circumstances trying to negotiate through this extraordinary set of programs. And I think you have done a fine job in your 2 years as Deputy Secretary, and I look forward to supporting your nomination.

The CHAIR. Senator Budd.

Senator BUDD. Thank you, Chairman. And Deputy Secretary, thank you for being here today. You are on record supporting AB257 and this bill creates a fast-food council of ten unelected Government bureaucrats to dictate wages and working conditions for California restaurant businesses.

This bill forced unionization on workers who never even asked for it, and it took independence away from small business owners and it gave it to unelected bureaucrats. Deputy Secretary Su, California voters have gathered enough signatures to prevent AB257 from taking effect.

Will you push policies as the Secretary of Labor like you did in California that take away the independence of job creators?

Ms. SU. Thank you very much, Senator. It is nice to see you here today. I believe that bona fide independent contractors will always have a place in our economy. They have and they will, and they are very, very important. I am not positive if AB257—I believe you are talking about a—

Senator BUDD. Let me just go back to the last part of the question, which is where you push policies as Secretary of Labor like you did in California that take away the independence of job creators? That is more of a yes or no, with a minor explanations.

Ms. SU. No. And to be clear, I would absolutely respect the authority of this body, of you, to make laws that I, if confirmed, will be charged with enforcing.

Senator BUDD. Thank you. You have called the ABC test a model for the country. Yet voters in California decided that it shouldn't even be a model in that state, with nearly 60 percent of voters overturning the part of the law that applies to app-based ride sharing and delivery services.

AB5 also resulted in a list of carve outs for industries that was longer than the law itself. Aside from the fact that California lawmakers are obviously picking winners and losers, it seems obvious that a law requiring more than 100 separate carve outs is deeply flawed.

Deputy Secretary, do you believe that California's AB5 is a model for the Department of Labor to build its Federal labor policy on?

Ms. SU. Thank you, Senator. I believe that AB5 was a bill passed by the California Legislature and given to me in my then role to

enforce. I do not believe that the ABC test that is codified in AB5 is Federal law, and I do not believe that I could make it Federal law unless you all made it Federal law.

Senator BUDD. Let me push this a little more. So, in your comments to Senator Cassidy, you said the Department of Labor does not have the authority to implement the ABC test. But do you still think it is a good model for the country?

Ms. SU. I think, Senator, that bona fide independent contractors have a place in our economy and need to be able to operate.

I also believe that misclassification, meaning when you have someone who should be an employee but is called an independent contractor, maybe they work side by side with other people who are doing the exact same thing as they are, but they are called an independent contractor, so they are not protected by minimum wage, overtime, unemployment insurance, and other laws, and the employees are, that is a problem in our economy that needs to be addressed.

Senator BUDD. Thank you. I want to shift gears to rulemaking. The fiduciary rule is still on the regulatory agenda this year, despite the fact that the last time this rule was issued, it had devastating effects, causing 10.2 million low and middle income individuals to lose access to investment assistance.

I have serious concerns with the DOL re-implementing a failed standard, not to mention the potential mismatch of industry standards that might arise between it and the SEC's reg best interest.

I am curious how much taxpayer money the DOL and the DOJ previously spent on implementation and litigation of the disastrous 2016 fiduciary rule, and how much both departments would project to spend should the Labor Department move forward with another rule?

Any idea how much you would spend on that, on implementation and litigation?

Ms. SU. Senator, thank you. I don't know the answer. I was not here in 2016. I will say that your point is precisely why it is so important for us to engage with all stakeholders before adopting any rule.

Senator BUDD. Hopefully that includes 10.2 million low and middle income individuals who have lost access to investment assistance. So, I am out of time. I am going to be opposing your nomination. I do appreciate your time today, and I yield back to the Chair.

Ms. SU. Thank you, Senator.

The CHAIR. Senator Hassan.

Senator HASSAN. Well, thank you, Mr. Chairman. And I want to thank you and Ranking Member Cassidy for the hearing. And Acting Secretary Su, it is good to see you. Thank you for meeting with me.

Before I start with questions, I want to take a moment to echo some of my colleagues' comments this morning and reiterate how important it is to crack down on the alarming increase in child labor violations, expand access to career training pathways that

will lead to good paying jobs, and support workers who experience disabilities.

I want to start with a question about workforce training. People need access to high quality workforce training that leads to good paying jobs. As you may know, I, along with Senators Young, Collins, and Cain are authors of the bipartisan Gateway to Careers Act, which would establish a career pathway grant program for community colleges, technical colleges, and workforce development partners to provide job training for unemployed or underemployed individuals.

The bill would also provide support to workers who face barriers such as transportation and access to childcare. If confirmed, how will you increase access to workforce training and supports that boost program completion?

Ms. SU. Thank you so much for that question, Senator, and for your work and leadership in this space. I really enjoyed our conversation about this and other issues.

As Deputy Secretary alongside Secretary Walsh, and as Acting Secretary, and if confirmed as Labor Secretary, this would really be a top priority for the Department of Labor. We are seeing the need for skilled workers in a whole bunch of different industries.

That is why the Department of Labor recently put out an \$80 million grant to expand nursing, training for nursing. I know this is something that this Committee has already brought to light as well.

In that stakeholder engagement and listening to what the needs are industries, we found that the need is not only for nurses themselves, but also for clinical instructors, and so the funding opportunity does address both those issues. We have expanded apprenticeships in trucking.

That is what I haven't talked about yet. And I know, a point was made earlier that it takes too long for apprentices to finish programs. I do think that we have to look at ways to recruit and to train and to get people in high quality—with high quality training into good jobs as quickly as we can. And if confirmed, I would love to work with you on this, Senator.

Senator HASSAN. Well, thank you. I want to turn to a slightly different topic. In January 2023, the labor force participation rate for people experiencing disabilities was around 25 percent, compared to about 65 percent of those without a disability.

We have to do better as a country at removing barriers and creating opportunities for individuals experiencing a disability so that they can enter and remain in the workforce. I deeply value the work that the Department's Office of Disability Employment Policy is doing to increase employment opportunities for these individuals and help employers better understand ways to support them.

To this end, Acting Secretary Su, can you detail some of the major initiatives currently underway by the Office of Disability Employment Policy?

Ms. SU. Yes. Thank you so much for that question, Senator.

I was going to say, and you beat me to it, that the Department of Labor does have our own sub agency that is devoted to exactly

the issue that you are raising, because we see and understand that it is critically important if we are to build an economy where no one is left behind, to make sure that communities that are not participating in the labor force to the extent that they want to and could, have an opportunity.

That is the primary focus of our Office of Disability Employment Policy, or ADEP. And one of the biggest priorities for ODEP is, I think what you are alluding to, which is competitive, integrated employment.

Making sure that people with disabilities are able to work up in the labor force alongside workers without disabilities and get the training and the pathways for upward mobility that they need and deserve. And so, we have been doing that competitive, integrated employment work in multiple areas.

We do it through technical assistance grants. We do it through collaboration with states to make sure that funding that states are providing are all driving toward a holistic set of policies that will actually make a difference in the lives of people with disabilities on the ground.

We have done it in the form of technical assistance and work directly with employers so that they understand how to integrate these kinds of policies in the workplace.

Senator HASSAN. Well, thank you very much, and I look forward to working with you on that. I have another question that I will submit for the record on apprenticeships, because I understand, one, I am out of time, and I understand other people have touched on it.

But it is an area in which New Hampshire leads and we would very much appreciate working with the department moving forward and with people on both sides of the aisle to improve apprenticeships and make them more available in this country. Thank you.

The CHAIR. Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman. Chairman Sanders likes to keep things on time here. I like that, too. I am from the logistics business. I enjoyed our conversation yesterday. I am going to read a statement here because like I told you, I think so much of what you expect in the future, you got to pay attention to what might have happened in the past.

Neera Tanden, in her capacity as President of the Center for American Progress, held a panel on wages and benefits in December 14 with you, Wage and Hour Administrator David Weil, who recently did not get nominated into a spot, and Labor Secretary Tom Perez.

On this panel, and I am quoting what you said, just this last term, the Governor of California signed a bill that creates a concept of client employer that gets to the whole fissured workplace that David Weil has talked so much about. Fissured workplace is the definition of franchised or franchisee.

About the idea here that a century of labor laws are premised on employer, employee relationship. So, when you have these middlemen and subcontracting, you really start to take away from

that, from the protections between those at the top who contract or labor, and those at the bottom.

The client employer concept is if you hire workers through a labor contractor as part of your regular course of business, and there is a whole definition for what regular course business means, but then you as a client employer are responsible for all the wage liabilities as if you were the employer.

I think this has a potential to be a very important tool to get at the insulation between the top and bottom layers, meaning franchisors and franchisees. I am not going to ask you to respond to it because I am reading your statement.

I will say this, a franchisor, franchisee is the most normal way you enter into the world of owning a small business, and I don't think this indicates that you would be working toward keeping that kind of structure there.

We also talked about gig economy, which we had a different conversation on. And I think there you were acknowledging that was different maybe from a franchisor, franchisee. Here is where I am going to—I want you to respond to this.

I think a lot of what has to do with anybody coming to a position of responsibility, you have got to probably justify some of the things in the past. I want to read this. I think character is important and I want you to respond to it.

In 1989, you took part in the seizure of the President of Stanford University's office in a protest known as the takeover 89. And I have got it from the Archives of Stanford Library, which I would like to submit into the record, Chairman.

[The following information can be found on page 215 in Additional Material:]

Senator BRAUN. Thank you. Stanford's President described the 10-hour occupation of his office as unlawful and as one of the gravest student protests in the last 16 years. Three years after the takeover 89 at Stanford, you were a key participant of the Griswold 9, a group of radicals that seized and occupied a Harvard Dean's office.

In 1995, you told the L.A. Times, I guess, well, I was arrested, but, well, in the end, all the charges were dropped. Please comment on that. That is on your record. It is in the archives of the Stanford Library.

How can that possibly be something that would make us feel confident about you filling this spot?

Ms. SU. Thank you very much, Senator. Thank you for the time that you spent with me. I know we had a lively discussion and I appreciate your questions and I am going to try to address them.

If I may just say, Senator, one of the first cases I ever had was a case involving garment workers who have been trafficked into the country and forced to work behind barbed wire and under armed guard for as long as 18 hours a day.

What we discovered in that case was it was not just their captors who had a role in that, there were contractors up the chain who knew about what was happening—

Senator BRAUN. You wouldn't generalize that into an example that would be descriptive of franchisors and franchisees?

Ms. SU. Exact—in fact, franchisors and franchisees had nothing to do with it whatsoever.

Senator BRAUN. But that was my question earlier on—

Ms. SU. Nothing to do with it whatsoever. For me, when everybody talks about how franchise—having a franchise company is a way that especially immigrants get into, get—own their first business and get a toehold into the middle class, that is my family. That is what—that was my experience. So,—

Senator BRAUN. Before you get gaveled out, do you want to comment on what happened at Stanford and Harvard?

Ms. SU. Yes. Just one more thing. The client employer is a—it was a concept of state law, not a Federal law. And I will assure this Committee that my fidelity to Federal law is complete. Okay, so we are talking about 19—what happened in 1980?

Okay. Senator, let me just say this, I don't know if this is responsive and I know you can stop me if it is not.

I have an anecdote to share with you about this, which is, and my memory may be fuzzy about this, but at my Harvard graduation, the dean of the law school, Dean Robert Clark, who was the dean during the sit in, actually said at the graduation ceremony that it was good to see Julie Su sitting in my office, talking about how to address the issues that she sat in about in her first year rather than sitting in again.

I share that with you because I do think there are many ways to make change. There are many ways to make the world a better place. And I have been somebody who sits down at the table and is willing to talk to anyone who,—

Senator BRAUN. The past is apparently—

Ms. SU [continuing]. Find common ground—

Senator BRAUN [continuing]. Of the future. So, thank you.

Ms. SU. Thank you.

The CHAIR. Senator Smith.

Senator SMITH. Thank you, Mr. Chairman. And Acting Secretary Su, I agree with you. There are many ways to make the world a better place. And I have to say, looking at all of the work that you have done, I can see that you have devoted your entire life to making the world a better place.

I strongly support your nomination. You have done an outstanding job as Deputy Secretary at the Department of Labor, working as a key partner with Secretary Walsh. You have a well-deserved reputation for inclusive leadership, working with workers and business and industry associations alike to fulfill the mission of the Department of Labor and to implement the laws that Congress has passed.

That would be your job as the Secretary of Labor. And let's just remind everybody that the mission of the Department of Labor is to foster, promote, and develop the welfare of wage earners, job seekers, and retirees in the United States; to improve working con-

ditions; advance opportunities for profitable employment; and to assure work related benefits and rights.

I think it is important to remember that is the mission that you would swear to uphold if you, as I dearly hope, become our next Labor Secretary. I want to just note that there have been some questions raised today about whether or not you have any experience negotiating large labor contracts.

You probably aren't even aware of this because this just happened, but I understand that you played an important role in the contract negotiations between the International Longshore and Warehouse Union and the Pacific Maritime Association, and apparently this morning they have just reached a settlement and an agreement, which is a very important moment and something that I am sure you are delighted to know and to be aware of.

Maybe you could just take a minute to talk a bit about your experience in this case, being a part of an important negotiation that impacts really the entire country.

Ms. SU. Thank you. Thank you very much for that, Senator. Those are parties that I have known through my—before I came to this role.

They are in the midst of a very important negotiation that has—that is extremely consequential, not only for the parties, but certainly for the parties, and also for our supply chain and our economy as a whole.

I have been engaged with the parties, and our role is to help support them stay in the table, help support them resolving their issues. I did recently impress upon them the urgency of the issue, and I am pleased that they have made real progress that has been announced.

There will still be a few issues that the parties need to resolve, but I think this is a good example of how the collective bargaining process really works. So, thank you very much for noting that, Senator.

Senator SMITH. I think it is also an example of how important it is for leaders like you to be integrally engaged in this. And I am just going to offer for the Committee, this is a quote from Gene Seroka, who is Executive Director of the Port of L.A. and he said, this is just—this is just like brand new.

He said communication has been daily, hourly by the minute. Acting Labor Secretary Julie Su has been on the phone with us morning, noon, and night. That is the kind of leadership that you have demonstrated, and it is why you are respected by folks in both labor and in business who have had an opportunity to work with you, because they value effectiveness and they value somebody who is about seeking solutions to problems rather than making problems.

Speaking of making problems, Mr. Chairman, sometimes it happens that big business lobbyists decide collectively that they are going to flex their muscle and to try to defeat a highly qualified candidate.

Often those attacks have very little connection to the actual person or their record. In fact, they are about politics and money. And

I think that this is one of those situations where you have the big business lobby putting up billboards in the states of Senators on this Committee attacking a nominee.

What is going on here. They are trying to use their money to influence this process. And it is our job, Mr. Chairman, to cut through all of that and to get to the real person and their qualifications.

I think the record is clear that you are highly qualified to serve as Labor Secretary, and I am very grateful for the opportunity to support you, and I look forward to seeing you in that seat. Thank you.

Ms. SU. Thank you so much, Senator.

The CHAIR. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman, Acting Secretary Su. Welcome back to the Committee. First question for you is regarding a project that I had some time to spend with former Secretary of Labor Marty Walsh. Secretary Walsh was very helpful in his capacity as the head of the Department of Labor in supporting the Willow Project.

This is a resource development project in my state that promises great opportunities for Alaskan workers at a time when our economy is struggling. He recognized the value of that, the value that this project could create over 2,500 construction jobs, 300 long term jobs, and really contribute to our Nation's energy security.

As I look back over your tenure there at the department, I see that you have held 22 meetings with the EPA or climate related advocacy groups. Not too many that I have noted with industry or employer groups.

The question for you this morning is whether you would continue Secretary Walsh's support for projects like the Willow projects that clearly create jobs, improve our energy security, regardless of what part of the energy sector that they are in.

It is one thing to say that you support renewable energy jobs, but in my state, we are still—the basis of our economy is still resource production, resources that this country relies on. So, your support for projects like the Willow Project?

Ms. SU. Thank you very much, Senator. It is good to see you again. I know that specific project wasn't something we talked about last time, but many of the issues facing Alaska were, and I appreciated that chance to speak with you then.

Secretary Walsh and I worked very closely over the last 2 years. He treated me as a true partner, and when the President nominated me to become Labor Secretary, he said that he wanted me to help finish the job. So, the idea of continuity, the idea of making sure that we deliver on the many big important things that we were trying to do as we continue the robust economic recovery that we have had, are things that I am very, very committed to.

I stand by the decisions that were made during his tenure, and obviously under the leadership of the President on the issue that you raised, the project that you are talking about.

Senator MURKOWSKI. Well, you haven't told me that you support the Willow Project and the fact that it will provide significant jobs, which, again, are very important to my state. But it is not just projects that have gone through that pipeline, so to speak.

We have considerable opportunities when it comes to critical minerals, responsible mining projects that, again, will put in place significant economic opportunities and job opportunities while producing the raw materials.

I would hope that again, there would be a recognition that even if you have to drill or dig, that these are jobs that this country needs and that the Department of Labor, and certainly the Secretary of Labor, would support those.

I want to ask about unemployment insurance. And when you first came before this Committee, I expressed a concern at the time because in my state we have a very aged or aging system when it comes to our UI system.

We provided funding here in Congress for the specific purpose of helping states modernize their aging systems. We clearly need it. It is estimated to cost us about \$50 million. But the State of Alaska did not see any of this that Congress had allocated.

It is my understanding that instead those funds were dispersed for DOL tiger team project. We don't know exactly what that is, but we do know that states like Alaska who are desperately in need of these modernization and updates didn't receive it.

The question to you is why? Why DOL did not use the funding that we provided to support the creation of new UI systems. And then, whether or not you recognize that this has to be a priority for us.

Ms. SU. Yes, Senator, thank you. To take the second question first, I absolutely recognize why it has to be a priority.

As someone who was at the state level during the pandemic, I know—we have had a conversation about the outdated technology and the need to really build the system so that it can be flexible and reliable enough when we have crises.

I want to—I don't know the answer about Alaska, but I will tell you that one of the things that I have been working on over the last 2 years is making sure that the \$2 billion or so in American Rescue Plan money that was meant for states is going out to states. Some of it has happened in phases.

Some states have, and I know in some of my meetings we talked about how much has gone to a certain state for fraud prevention, for improving equity and access to unemployment insurance, and the like. I will look into what has happened with Alaska.

It may be that—and some of this was done in conjunction with where the states were in terms of their engagement with us. But our plan is to get the vast majority of that funding out to states in the way that they were intended by June.

The CHAIR. Senator Hickenlooper.

Senator HICKENLOOPER. Just because—just to finish that, I think you were about to say you do support the Willow Project.

Ms. SU. Yes, I support decisions that have been made in this Administration. And I think your point, Senator, was that there are other projects that are coming, and I absolutely commit to you to sit down with you to understand the issues, to make sure that the people of Alaska and the important economy of Alaska is heard and well represented in the decisions made at the Department of Labor, if I am confirmed.

Senator MURKOWSKI. Thank you. Thank you, Senator Hickenlooper.

Senator HICKENLOOPER. I have made no secret of my admiration and appreciation for Julie Su, and I appreciate you being here again and going through this.

As someone who, I spent 8 years as the Mayor of Denver, 8 years as Governor of Colorado, I spend a lot of my time trying to recruit and attract people to public service who in many cases could make enormously more money, have more prestige or celebrity status.

Although your celebrity status is pretty good here right now, I have to say. And I have to say I can't think of anyone I ever was able to hire who has and brings to the table the skill set and the experiences that you bring to the table.

I think as a child of small business owners, your firsthand experience gives you an insight into what it is like to run a franchise, to be a small businessperson is as a first generation American.

You understand what so many workers and families across this country are facing every day. And I think your focus on being transformative, for so many people, is unbelievably powerful.

Last, as a mom, you recognize the need to invest in our next generation of workers by making sure that pipeline works, that we have a 21st century pipeline that does work. And it is great that your daughter is here through thick and thin, and I have a son who is taking exams today myself out in a college in California.

Anyway, I look forward to you getting confirmed. I want to talk to you a little bit, and I know that apprenticeships has been covered thoroughly already. I don't want to—you can't say beat a dead horse because it is too powerful and too important to refer to in such terms.

But we talked previously about how apprenticeship maybe needs a rebranding and a refreshing, because a big impediment is convincing not just students, but their parents that this is an experience that might be a good fit.

For every individual, it is going to be different, but we need to rebrand it so that it is not a—it doesn't drag down the opportunities for so many people. Do you want to comment on that, this idea of refresh?

Ms. SU. I mean, I agree with that. Thank you so much, Senator, for all your comments, and for our conversations, and for your support. I agree that—and it is funny, I just had this conversation yesterday with a large employer association who said the exact same thing.

That one of the challenges we face as we seek to expand the manufacturing sector in the United States and build good jobs to manufacture semiconductor chips and all kinds of things across

this great nation, that we need to rebrand some of the jobs that have been for a long time—the jobs are new.

That there are ways to do them that are different, that also make them much more accessible to whole communities that might not have been included before. And so, I think making it clear that a pathway to an apprenticeship for someone who is going to get a job that does not require a 4-year degree is just as valid, is just as worthy of our respect and our praise, as going to a 4-year college, is something that I commit to you.

I know it is something you care deeply about that we should be engaged in that rebranding, that we should use the privilege of being in these seats and having our voices to make sure that happens.

I think that will really help with the commitment to creating a very robust manufacturing industry in the United States.

Senator HICKENLOOPER. Right. And again, I can't—I don't think we can emphasize enough—I know the Ranking Member, I know the Chairman agree with us on this, that this is one of the looming opportunities that is there for the taking. It just takes will and great leadership at the top, which I think you could provide.

I am down to 25 seconds, but at some point, maybe for the record, you can look at it. I know we have talked a little bit about small business employers and they are—the paperwork makes it hard for them to go through the apprenticeship process, and just they are so busy.

At some point, I hope that we can work together with the Department of Labor to facilitate that so there is less—obviously I understand the security in the forms, but less red tape, less bureaucracy.

Ms. SU. I absolutely commit to working with you on that, Senator.

Senator HICKENLOOPER. Great. Thank you.

Ms. SU. Thank you.

The CHAIR. Senator Casey.

Senator CASEY. Acting Secretary Su, great to be with you and thanks for your public service. I am going to support your nomination proudly. And you are not only prepared to do this job and well-qualified, I think you will serve with distinction as you have in the Department of Labor in your work already.

I think it is important to put a few things on the record. It may prevent me from getting to my questions, but I will start with the mission of the department. I think it has been lost here in the discussion in Washington.

Sometimes Washington is—you have a debate that is grounded in facts, and sometimes there is a lot of hot air, and we have heard a lot of that of late. Here is the mission statement for the United States Department of Labor. And it is a mission statement today. It was a mission statement under the prior Administration.

Here it is, “to foster, promote, and develop the welfare of low wage earners, job seekers, and retirees of the United States, and

also to improve working conditions, advance opportunities for profitable employment, and assure work related benefits and rights.”

It is not the department of corporations. It is not the department of employers and employees, and all the talk you heard here today. It is the Department of Labor. I want a Department of Labor that is fighting every day for workers, not as some have characterized it.

It is a department that has to administer some 180 Federal laws for 150 million workers and 10 million workplaces. There is a lot of work to do to protect workers. If corporations were doing their job, we wouldn't need a Department of Labor, but you need one in the United States of America.

A couple of things about unemployment insurance. This is where the hot air is in Washington, in this debate about this nomination. So, I want to clarify a few things. The first being California is a huge state. You pay out more claims than anybody. One in five of all unemployment claims in the country. Is that correct?

Ms. SU. That is correct, Senator.

Senator CASEY. Isn't it true that 95 to 98 percent of the fraud in California was not from the regular, the regular unemployment program that you administered, but actually from the specially created pandemic unemployment assistance program created by the U.S. Senate and the House in the middle of the pandemic. Isn't that true?

Ms. SU. That is true, Senator.

Senator CASEY. Here is what we have. We had a special unemployment program set up for the pandemic, the worst crisis in 100 years. And a lot of things went well and a lot of things didn't go very well.

Here is what Bloomberg Law said. This isn't me. Bloomberg Law said this, “many of the fraudulent claims in California and across the country have stemmed from a Federal virus relief program.” They did then put it in parentheses, the CARES Act, that 96, every United States Senator voted yes on.

This program launched in April to support independent contractors and other workers not previously eligible for benefits. Guidance from the Department of Labor last year directed states to begin paying benefits to claimants under this program who had yet to provide documentation verifying their past earnings.

“The ability of states to accept self-certifications allowed vulnerable workers to get faster payments, but also exposed the system, the state systems to paying out false claims.” That is Bloomberg Law talking about what the Congress did and that the states had to administer.

I think it is pretty clear that there has been a lot of hot air and a lot of fiction flying around Washington about what happened in California. I hope there is a similar examination of every state's unemployment insurance record as well.

Here is my question in the minute that I have left, it is about a topic that you made reference to with Senator Hassan, sub-minimum wage. We are trying to do everything we can to phase it out,

to get rid of it. It is not good for our workers, not good for workers with disabilities.

We are trying to get rid of it, to be blunt about it. I want to phase it out and to make sure that people with disabilities have a fair shot in the workplace. Senator Daines and I have a bipartisan bill, the Transformation to Competitive Integrated Employment Act that will lift up workers with disabilities and raise their wages.

I want to ask you again, I know this is by way of reiteration, what is the Administration doing to ensure that we have competitive, integrated employment for people with disabilities? And specifically, how are you enforcing the 14(c) requirements?

Ms. SU. Well, thank you very much for our meeting, Senator, and for this question, which is very important.

Competitive, integrated employment is the North Star. It is where we want to make sure that all workers with disabilities are able to access the same good jobs we keep talking about, get the training that they need to succeed in those jobs, the supports that they need in the workplace, and pathways to upward mobility in those jobs.

Just as workers without disabilities have. And at the Department of Labor, our sub-agency, the Office of Disability Employment Policy, is laser focused on that work. And I have been engaged with them over the last 2 years as Deputy Secretary on making sure that we are finding every possible way to expand such programs, to support employers who are adopting those programs, to provide technical assistance to employers, to do outreach to workers with disabilities—

Senator CASEY. I know we have got to conclude. We will work with you on this, and I just look forward to working with you on it. Thank you, Mr. Chairman.

Ms. SU. I do too. Thank you, Senator.

The CHAIR. Senator Marshall.

Senator MARSHALL. All right. Thank you, Chairman. Thank you for being here, Ms. Su. As has been alluded to here, that nationally we had a significant problem with the unemployment insurance benefits.

But what I want to talk about is the statute of limitations. So, we approached \$200 billion of improperly paid unemployment insurance benefits, and many of those statutes of limitations on these cases will be expiring in 2025.

We have legislation that would extend the statute of limitation on fraud for another 5 years that would be consistent for the statute limitations for PPP and COVID idle fraud. How do you feel about extending the statute of limitations on those cases?

Ms. SU. Thank you very much, Senator. I know I have said this already, but I feel like it bears repeating that the fraud, waste, and abuse in the system was unacceptable. It is intolerable.

That is why I took the steps I took, and that is why at the Department of Labor, I have been so focused on making sure that we are creating an unemployment insurance system in conjunction

with states that is going to stop fraud at the front door, deliver benefits to eligible individuals, be the safety net it is intended to be for workers who are out of a job through no fault of their own, and to be good stewards of taxpayer money.

As I have also said a few times today, but not about this particular issue so I appreciate your question, I have full deference to the authority of this body and of the decisions that Congress makes about the right policies in this case and in others.

If that is something that Congress were to pass and entrust the Department of Labor to enforce, then if confirmed as Labor Secretary, I would—

Senator MARSHALL. Do you agree, there is a lot of money still out there and these cases are still ongoing, and we could gain back some of those moneys if we continued those investigations?

Ms. SU. Senator, that is a very good question. I don't know—I don't believe that there are new fraudulent payments going out every day in the same way that we have talked about. I mean, obviously, the pandemic unemployment assistance—

Senator MARSHALL. No, no, so I am talking about cases that are, or already should have been opened that are not closed yet. So, extending the statute of limitations would allow us to keep going after the old ones.

Ms. SU. Yes, I will say, Senator, one thing is that at the Department of Labor, our Office of Inspector General has also been doing work to investigate cases to try to recover moneys where possible. And I do think that is an important part of the fight against fraud.

Senator MARSHALL. I want to turn and talk about the rules on joint employer definitions that have gone through significant changes in the past decade. Previous Administrations rule provided a clear cut, defined, and accurate definition of a joint employer. And again, you may have answered this question already.

We are bouncing between Committees. Under your leadership, this rule was rescinded and has not been replicated with anything. This has caused quite a bit of uncertainty for businesses.

To that end, would you agree that an employer should be considered a joint employer only if directly, actually, and immediately exercises significant control over the primary elements of employment?

Ms. SU. Senator, thank you so much for that question. The joint employer rule that was put in place by the prior Administration was actually vacated by a Federal judge. Meaning a Federal judge said that rule could not stand.

As a result, the Department of Labor rescinded it. What that did was restore the state of the law to the place it was before that rule came into place, which was based on decades of Federal cases interpreting who a joint employer is and under what circumstances it would apply.

Senator MARSHALL. Do you agree with what I defined a joint employer was a second ago? I am going to go through that again. Would you agree that an employer should be considered a joint employer only if it directly, actually, immediately exercises significant control over the primary elements of employment?

Ms. SU. Thank you for that question, Senator. The joint employer test, I know you know this, is a fact specific test. It is a test that is based on the relationship between two or more—

Senator MARSHALL. I define it one way. Would you agree with the way I define it? I think it is a yes or no question.

Ms. SU. Senator, I am not familiar enough with the case law to say that summary of it is an accurate statement of it. But I think to the point—

Senator MARSHALL. Then last, and I understand that—business has been waiting over a year for an answer from the Department of Labor. Do you think that they deserve an answer sooner so they can make plans? There is nothing worse for a small business, for any business, than uncertainty.

Ms. SU. I 100 percent agree with that. I think the regulatory certainty is very, very important. I know that from my family's history of having a small business as well as my family, my extended family's current status as business owners.

The joint employer test as it stands is based on case law that has been developed over several decades. The Department of Labor does not have in its current agenda a plan to issue another rule about that.

Senator MARSHALL. Okay. Thank you. I yield back.

Senator CASEY. Thank you, Senator Marshall.

Senator Cassidy.

Senator CASSIDY. Yes. Again, thank you, Ms. Su. Again, a wonderful personal story, and you have handled yourself very well in a very stressful situation. I would like to clear up a couple of things that were said. Senator Smith suggested that there had been a final agreement achieved in the international longshoremen's strike. That is not the case.

Just for the record, the Pacific Maritime Association stated last night, we have reached a tentative agreement, but we are still on things. We have been negotiating major issues yet to be discussed, much less reach agreement on, just for the record.

Second, I have to disagree with my good friend Bob Casey. The Department of Labor should also be about employees and not just unions.

I am sure you meant that but implied not. And there are a lot of gig workers, freelancers who objected to AB5 who would feel as if their interests were not adequately represented, and that is what a lot of this discussion has been about.

Last, part of our discussion—I am a doctor. You might guess, I suspect—I am very suspicious of attorneys. But regarding the ABC test, the prior Administration's rule had been vacated by a district court but was on appeal.

It is not clear—it is not for sure—that it would have been continued to be vacated. And indeed, I am told that is consistent with *Falk v. Brennan* from the Supreme Court, if I got that correctly.

Last, that the subsequent rule put out by this Administration began to redefine roles much more consistent with an ABC test as

opposed to that which has been precedent. I say all that for the record. And again, Senator Casey, thank you for your indulgence.

Ms. SU. If I could just say one thing, Senator. I will accept your suspicion of attorneys, but say I love doctors. And my mother, who is watching would want me to say to you, as I said to you once, that a liver surgeon saved her life at one point. And so, I thank you in your profession for all you have done, including for my mom.

Senator CASSIDY. Thank you

Senator CASEY. Well, let me just also say for the record that the mission statement I read from was not about one kind of worker, union versus nonunion. It was the mission of the Department is to foster, promote, and develop the welfare of three groups, wage earners, job seekers, and retirees.

I think that should be kept in mind. And as opposed to a different name for having corporations as opposed to employees. But we can continue to debate that, I guess. But thanks very much. I will read a statement for Chairman Sanders.

This concludes our hearing. Thank you, Ms. Su, for joining us today. I ask unanimous consent to enter into the record 68 letters from labor and advocacy organizations, businesses and individuals in support of Ms. Su's nomination.

As a reminder, the Committee will vote on Ms. Su's nomination next Wednesday at 10.00 a.m. in this hearing room. For any Senators who wish to add additional questions, questions for the record will be due tomorrow, Friday, April 21st at 5.00 p.m.

Senator CASSIDY. I was supposed to—I am sorry, I forgot to do this. I ask unanimous consent to enter letters in opposition to Ms. Su's nomination, representing 50 organizations and business groups expressing concerns.

[The following information can be found on page 235 in Additional Material:]

Senator CASSIDY. Without objection. The Committee stands adjourned.

## ADDITIONAL MATERIAL

**Headquarters**

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**DC Office**

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**Southern Office**

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Nashville, TN 37212  
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303 E. 17<sup>th</sup> Ave., Suite 400  
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[abetterbalance.org](http://abetterbalance.org) | [info@abetterbalance.org](mailto:info@abetterbalance.org)

April 18, 2023

Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

**Re: Support for Julie Su as Labor Secretary**

Dear Senators:

We write to express our enthusiastic support for Julie Su as Secretary of Labor.

A Better Balance is a national legal advocacy organization that uses the power of the law to advance justice for workers, so they can care for themselves and their loved ones without jeopardizing their economic security. We run a free and confidential legal helpline, on which we regularly provide workers across the country information about the Family and Medical Leave Act (FMLA) and PUMP for Nursing Mothers Act (PUMP) — both laws the Department of Labor (DOL) is responsible for enforcing. The low-wage workers, disproportionately women of color, who our organization serves depend on the DOL's clear interpretation and strong enforcement of these laws and others. We are confident Deputy Secretary Su is the right person to lead the agency through its next chapter.

As Deputy Secretary, Ms. Su worked hand in hand with Secretary Walsh to lead the DOL in effectuating President Biden's priorities. Her work implementing the Good Jobs Initiative helped expand paid leave and apprenticeships for women and other underserved workers. During her tenure, DOL raised wages for low-wage workers, disproportionately women of color, including by promulgating a final rule increasing wages for federal contractors and restoring critical protections for tipped workers.

In recent months, DOL has improved its public education materials for workers seeking to use FMLA to care for themselves or a family member, without being penalized through the assessment of points (or deduction of time) under absence control policies. Likewise, DOL has issued guidance explaining lactating workers' new rights and remedies under PUMP. These education materials will ensure that the workers our organization serves every day — as well as their employers — understand their rights and responsibilities under the law.

As Labor Secretary, Ms. Su would continue to promote the rights of workers to care for themselves and their loved ones, following in the footsteps of Secretary Walsh. In addition, her confirmation would bring vital gender, racial, and professional diversity to DOL leadership and President Biden's Cabinet. We wholeheartedly support her nomination.

Sincerely,

Dina Bakst  
Co-Founder & Co-President  
A Better Balance

Sherry Leiwant  
Co-Founder & Co-President  
A Better Balance



April 19, 2023

The Honorable Bernie Sanders  
Chair  
Senate Committee on Health, Education, Labor,  
and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education, Labor,  
and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

The Association of Asian Pacific Community Health Organizations (AAPCHO) strongly supports President Biden's nomination of Julie Su to serve as the next U.S. Secretary of Labor.

Ms. Su is exceptionally qualified to lead the U.S. Department of Labor and advance important initiatives to build a more inclusive and equitable economy. As the Deputy Secretary of Labor since the start of the Biden Administration, Ms. Su worked alongside Secretary Walsh to modernize workforce development programs, improve accessibility in government contracting and grantmaking for underserved communities and communities of color, and lead the Department's more than 16,000 federal employees administering \$14 billion in federal resources. She has been an important voice and champion for workers, and has built trust across all stakeholders, from labor unions, business groups, and worker organizations.

Moreover, her prior experience as California's Labor Secretary and a civil rights lawyer for more than 17 years is indicative of her commitment to protecting individuals from exploitation and fostering a fairer economic system. She is a nationally recognized expert on labor policies and workers' rights who has dedicated her career to fighting for communities that are marginalized and vulnerable. Her partnership will be invaluable as the nation rebuilds and strengthens our health and mental health workforce to reach and provide care in these communities.

Ms. Su has demonstrated that she is uniquely fit to lead the U.S. Labor Department. Her lived experiences and expertise will provide important perspectives as a member of the president's cabinet, especially for Asian Americans, Native Hawaiians, and Pacific Islanders. We urge a quick and favorable confirmation of Julie Su as our next Secretary of Labor.

Sincerely,

Jeffrey B. Caballero, MPH  
Executive Director

The Honorable Bernie Sanders  
Chairman  
U.S. Senate Committee on Health, Education & Labor  
Washington, D.C.

The Honorable Bill Cassidy  
Ranking Member  
U.S. Senate Committee on Health, Education & Labor  
Washington, D.C.

April 19, 2023

Dear Chairman Sanders and Ranking Member Cassidy,

We write to you on behalf of the Asian American Pacific Islander small business and entrepreneurial community to express our support for Deputy Secretary Julie Su's nomination to serve as the next Secretary of Labor. Su is the daughter of Chinese immigrants and small business owners, and is now being considered to serve in the President's Cabinet. She's a living example of the American Dream which so many who immigrate to this country strive for, for themselves and their children, offering her a perspective that is necessary to address workforce challenges and lead on labor policies.

For the last two and a half years, Deputy Secretary Su has led the Department of Labor alongside Secretary Walsh and possesses the skills, experience and expertise necessary to continue the important work started under Secretary Walsh's tenure. In this time, she has overseen seismic shifts in US labor, stemming from a global pandemic and ongoing impacts of the pandemic.

If confirmed, she would be the first person of AAPI descent to serve as a Cabinet Secretary in the Biden Administration. AAPIs represent one of the fastest growing demographics in the country, accounting for 7.4% of the U.S. population, and 39% of all people who become lawful residents of the United States as of 2020.<sup>1</sup> Furthermore, AAPIs own 2.65 million firms, employ over 5 million workers<sup>2</sup> and make up 6% of the workforce.<sup>3</sup> That said, we believe that it is crucial for AAPIs to have greater representation at the Cabinet level, particularly among leaders that deal directly with workforce issues.

We urge the Senate to once swiftly and fairly vote to confirm Deputy Secretary Su to serve as the Secretary of the Department of Labor.

Sincerely,

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<sup>1</sup> [Advocating for the Asian American Business Community and Pacific Islander Business Community — National ACE](#)

<sup>2</sup> Ibid

<sup>3</sup> [Asian American workers: Diverse outcomes and hidden challenges](#)

National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship  
(National ACE)  
ACE NextGen  
Asian American Chamber of Commerce of Greater Philadelphia (AACCGP)  
Asian American Executive Network  
Asian American Business Development Center (AABDC)  
Asian American Chamber of Commerce of Illinois  
Asian Business Association  
Asian Chamber of Commerce Colorado  
Asian Chamber of Commerce Houston  
Asian Chamber of Texas  
Asian Corporate & Entrepreneur Leaders  
California Asian Pacific Chamber of Commerce (CalAsian Chamber)  
Central Florida International Chamber of Commerce (CFICC)  
Chinese Chamber of Commerce of Los Angeles  
Chinese Mutual Aid Association (CMAA)  
Filipino Chamber of the Pacific Northwest (FCCPNW)  
Greater Austin Asian Chamber of Commerce  
Hmong Wisconsin Chamber of Commerce (HWCC)  
International Leadership Foundation (ILF)  
Intramuros Community Development Partners  
New American Business Association  
Pacific Island Knowledge 2 Action Resources (PIK2AR)  
US-China Chamber of Commerce, Dallas (USCCC)

Cc: Members of the Senate Committee on Health, Education & Labor



April 10, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of Asian Americans Advancing Justice and the 56 undersigned organizations representing Asian American and Pacific Islander communities, we write to express our strong support for the confirmation of Julie Su to serve as the next U.S. Secretary of Labor.

Asian Americans Advancing Justice is a national affiliation of five leading organizations advocating for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all. The affiliation's members are: Advancing Justice – AAJC (Washington, DC), Advancing Justice - Asian Law Caucus, AJSOCAL (Southern California), Advancing Justice - Atlanta, and Advancing Justice - Chicago.

Two years ago, Advancing Justice first supported Ms. Su's candidacy to be Secretary of Labor, as well as her nomination for her current role as the Deputy Secretary of Labor. If confirmed to be the U.S. Secretary of Labor, Ms. Su would become the only Asian American head of a federal department.

In her current role, Ms. Su has been an indispensable leader within DOL, working across government for a more inclusive economy. This has included working closely with Secretary Walsh to avert a nationwide railroad strike, improving labor standards enforcement to protect the most vulnerable workers, and modernizing workforce development programs. Ms. Su has not only built strong working relationships among federal government leaders to accomplish this

progress, but has also built trust with labor unions, worker organizations, and business groups across the country.

Since her confirmation as the Deputy Secretary at the DOL in 2021, she has served as the de facto Chief Operating Officer managing over 16,000 federal employees and a budget of over \$14 billion. Now, with this and past experience, she is uniquely qualified and positioned to further deliver on labor, workforce, and employment goals for the nation.

Previously serving as Secretary for the California Labor and Workforce Development Agency, Ms. Su led the largest state labor department in the United States, managing a governmental agency of over 11,000 employees for the most populous state in the nation. In the face of the devastating economic impact of the COVID-19 pandemic, she was a clear leader in protecting the health and safety of workers and promoting sound economic policy to support small businesses and their workers. Prior to this position, Ms. Su's work as the California Labor Commissioner for nearly a decade brought praise from both workers' advocates and the business community for her effectiveness in governance and enforcement, promoting fairness for both workers and employers.

Before her service in government, Ms. Su fought for human rights and worked to protect the rights of the most vulnerable. Ms. Su began her career litigating workers' rights cases at Asian Americans Advancing Justice Southern California (AJSOCAL), formerly known as Asian Pacific American Legal Center, exposing the atrocities in sweatshops in El Monte, California where Thai garment workers were trafficked into the United States and forced to sew garments behind barbed wire and under armed guard. Her effectiveness as a litigator brought forth a multimillion-dollar settlement and protected the rights of the most vulnerable workers in our country as well as paving the way for protections for immigrant human trafficking survivors.

Decades later, Ms. Su is a nationally recognized expert on labor policy and workers' rights, dedicating her over 25-year career to the advancement of workers' rights, fair labor practices, and advancing equity and opportunities for workers.

Ms. Su's career demonstrates how uniquely positioned she is to successfully lead the U.S. Department of Labor. Furthermore, her lived experience as a daughter of immigrants, a woman of color, and an Asian American makes her uniquely qualified to lead the Department charged with the immense task of protecting the livelihoods of all Americans in our vibrant and inclusive democracy. We urge the Senate to swiftly confirm Julie Su as U.S. Secretary of Labor.

Sincerely,

Asian Americans Advancing Justice | AAJC  
 Asian Americans Advancing Justice | AJSOCAL  
 Asian Americans Advancing Justice | Asian Law Caucus  
 Asian Americans Advancing Justice | Atlanta  
 Asian Americans Advancing Justice | Chicago  
 APAPA-TX  
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 Asian American Coalition of Ohio  
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 Asian American Voices United  
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 Asian Community Development Corporation  
 Asian Community Development Council  
 Asian Counseling and Referral Service  
 Asian Law Alliance  
 Asian Pacific American Institute for Congressional Studies (APAICS)  
 Asian Pacific American Labor Alliance, AFL-CIO  
 Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)  
 Asian Real Estate Association of America (AREAA)  
 Asian Services in Action (ASIA)  
 Association of Asian American Investment Managers  
 Association of Asian Pacific Community Health Organizations (AAPCHO)  
 BPSOS  
 CAPIUSA  
 Center for Southeast Asians  
 Chinatown Service Center  
 Chinese American Citizens Alliance  
 Chinese Community Center  
 Council of Korean Americans  
 Empowering Pacific Islander Communities  
 Filipino Advocates for Justice  
 Hamkae Center  
 Hmong National Development, Inc.  
 Island Liaison, Inc.  
 Japanese American Citizens League  
 Japanese American Citizens League, Arizona Chapter  
 Laotian American National Alliance  
 LEAP (Leadership Education for Asian Pacifics)

Main Line Chinese Culture Center, Inc.  
Missouri Asian American Youth Foundation  
National Asian Pacific American Bar Association (NAPABA)  
National Asian Pacific American Families Against Substance Abuse  
National Asian Pacific American Women's Forum (NAPAWF)  
National Asian Pacific Center on Aging (NAPCA)  
National Council of Asian Pacific Americans (NCAPA)  
National Federation of Filipino American Associations  
National Korean American Service & Education Consortium (NAKASEC)  
National Tongan American Society, The  
New Mexico Asian Family Center  
OCA-Asian Pacific American Advocates  
OCA-Asian Pacific American Advocates Greater Houston Chapter  
Ohio Chinese American Association (OCAA)  
Pacific Asian Counseling Services  
Self-Help for the Elderly  
SERVICES IMMIGRANT RIGHTS AND EDUCATION NETWORK (SIREN)  
Sikh American Legal Defense and Education Fund (SALDEF)  
South Asian American Policy and Research Institute (SAAPRI)  
South Asian Public Health Association  
Southeast Asia Resource Action Center (SEARAC)

Cc: Members of the U.S. Senate Committee on Health, Education, Labor & Pensions



ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO  
 501 Third Street, NW, Washington, DC 20001-2797  
 afacwa.org | PHONE 202 • 434 • 1300

April 17, 2023

<p>The Honorable Bernie Sanders          Health, Education, Labor &amp; Pensions Committee          Chair          428 Senate Dirksen Office Building          Washington, D.C. 20510</p>	<p>The Honorable Bill Cassidy          Health, Education, Labor &amp; Pensions Committee          Ranking Member          428 Senate Dirksen Office Building          Washington, D.C. 20510</p>
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Dear Chair Sanders, Ranking Member Cassidy and all Members of the Senate HELP Committee,

The Association of Flight Attendants-CWA, AFL-CIO (AFA), representing 50,000 Flight Attendants at 19 airlines, urges you to advance the nomination of Julie Su for US Labor Secretary, and support swift confirmation by the full Senate.

Julie Su is the most qualified candidate for this office since Frances Perkins. Serving 17 years as a civil rights attorney representing workers who are often invisible, including shutting down sweatshops and routing out modern day slavery from our free country, parallels the early training and commitment of our historically most accomplished Labor Secretary. The only difference between Perkins and Su may be that Julie Su ran a larger state labor department while serving as Labor Secretary for the State of California, than Perkins had done within the state of New York. At a time when inequality is at its highest and human trafficking is on the rise around the world, we need a Labor Secretary who has a proven record of fighting for workers and defending our rights.

Failing to confirm Julie Su as Secretary of Labor is not an option. Not since the days of Frances Perkins, has the working class of this country – and the businesses that count on attracting an energized workforce – been in greater need of a confirmed, effective Labor Secretary able to fully perform the duties of the job. It is incumbent upon the Senate to ensure we have a leader in the Cabinet who understands the strength of our country comes from the diversity of our people and our contributions to our communities and our economy through every type of work. Julie Su is the Labor Secretary who can help all of us thrive. She has a strong record of bringing parties together to resolve disputes, on the firm foundation that labor rights are human rights and collective bargaining is the bedrock of democracy.

We stand firmly behind this eminently-qualified nominee's confirmation. Those both in favor and opposed to Julie Su's confirmation know that she will carry out the duties of her office with courage, clarity, and dedication that America's working people deserve. Opponents speaking out against this confirmation should be very wary of standing with Julie Su's prior opponents: the human traffickers and sweat shop operators who steal lives and obliterate the values we espouse as Americans.

President Biden has made an excellent choice in nominating Julie Su to a key Cabinet position that was created to ensure that working people's rights on the job are defended. No candidate can make U.S. Senators look better in their vote to confirm. We urge the Senate to confirm her nomination without delay.

Sincerely,

Sara Nelson  
 International President

AVIATION'S FIRST RESPONDERS




**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**Eric Bunn Sr.**  
National Secretary-Treasurer

**Dr. Everett B. Kelley**  
National President

**Jeremy A. Lannan**  
NVP for Women & Fair Practices

April 7, 2023

Honorable Bernie Sanders  
Chair  
Senate Committee on Health Education  
Labor and Pensions  
Washington, DC, 20510

Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health Education  
Labor and Pensions  
Washington, DC, 20510

Dear Chair Sanders, Ranking Member Cassidy and Members of the Committee:

On behalf of the American Federation of Government Employees, National Council of Field Labor Locals, and American Federation of Government Employees, Local 12, which represent employees at the Department of Labor's National Headquarters and across the country, we write to support the nomination of Julie Su to be the next Secretary of Labor.

Julie Su will be the right fit for this job to ensure that federal employees receive fair and adequate labor representation and full and fair rights and protections in the workplace. We trust that Ms. Su will work to ensure that the Department of Labor is at the forefront of restoring a strong and collaborative labor management and employee engagement environment and will work to implement President Biden's initiatives on labor-management engagement and good faith bargaining other federal personnel matters.

Further, we look forward to Ms. Su's future efforts to ensure strong recruitment, retention, and means of support for federal workers. For questions or more information, please contact Fiona Kohrman at [Fiona.kohrman@afge.org](mailto:Fiona.kohrman@afge.org).

Sincerely,

LaRhonda D. Gamble, MAML, MHRM, PCC  
President  
AFGE, Local 12  
Third Vice President  
AFGE, Council 1

Daryl Laurie  
President  
National Council of Field Labor Locals

April 10, 2023

Senator Bernie Sanders  
U.S. Senate  
332 Dirksen Building  
Washington, DC 20510

Dear Chair Sanders, Ranking Member Cassidy, and Members of the Committee:

AFGE Local 948 represents U.S. Department of Labor employees throughout New England. Our members work to ensure safe workplaces, prevent wage theft and child labor, develop and implement job training programs, protect private pensions, ensure equal employment opportunity among federal contractors and much more.

We are writing to support the nomination of Julie Su to be the next Secretary of Labor. Her long record in support of worker rights in California and as the Deputy Secretary of the U.S. Department of Labor make her eminently qualified to serve as the Secretary of Labor. We believe her experience will help ensure that DOL employees are treated fairly and equitably at work. We believe that she will work to restore a collaborative approach with federal employee unions, make the Department of Labor a model employer, and fully implement Executive Orders 14003 and 14025.

Sincerely,



Sal Insogna, President

AFGE Local 948



**American Federation  
of Labor and  
Congress of Industrial  
Organizations**

815 Black Lives Matter  
Plaza NW  
Washington, DC 20006

202-637-5000

afcio.org

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# AFL-CIO

AMERICA'S UNIONS

April 19, 2023

The Honorable Bernie Sanders  
Senate Committee on Health,  
Education Labor and Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Bill Cassidy, M.D.  
Senate Committee on Health,  
Education Labor and Pensions  
United States Senate  
Washington, D.C. 20510

Dear Chairman Sanders and Ranking Member Cassidy, M.D.:

The undersigned national and international unions strongly urge you to support the confirmation of acting Secretary of Labor Julie Su to serve as the next secretary of labor. Acting Secretary Su is exceedingly qualified for the position and has the substantive knowledge and management experience to continue her important work as head of the Department of Labor.

Su brings vast experience to the job, as a worker advocate, the secretary for the California Labor & Workforce Development Agency and then as deputy secretary at the Department of Labor. Throughout her career in government, Su has worked with a diverse set of stakeholders with different perspectives and concerns, from worker advocates to small businesses.

Deputy Secretary Su worked hard to make sure compliance information was readily available for employers seeking to obey the myriad laws and regulations administered by the department. She recognizes both the opportunities and the limitations of enforcement at an agency that administers more than 180 federal laws, covering 150 million workers and 10 million workplaces.

Together with former Secretary Marty Walsh, Acting Secretary Su worked tirelessly to carry out the mission of the Labor Department. Under their leadership, the Department helped promote equity and economic empowerment for communities across the nation, revitalizing workforce development partnerships, and helping more Americans get good-paying jobs and a path to the middle class.

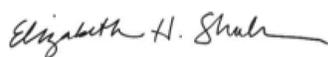
Acting Secretary Su has also demonstrated a strong commitment to protecting workers and ensuring that our workplace laws are enforced fairly and expeditiously. Her work as a private sector civil rights attorney representing vulnerable garment workers subjected to horrific exploitation and as a public official in California give her a unique perspective on the challenges workers face across the economy every day.

Chairman Sanders and Ranking Member Cassidy  
 April 19, 2023  
 Page two

Given her extensive background, we believe she is well qualified to address emerging workplace issues, like automation and artificial intelligence, while simultaneously ensuring that the agency continues and expands its core functions—combating wage theft, unsafe working conditions and discrimination on the job. At every level over decades, acting Secretary Su has tackled a constellation of complicated workplace issues, always delivering results for the people she serves.

As the daughter of Chinese immigrants, Su has been a trailblazer for the Asian American and Pacific Islander community, but also for worker advocates fighting for equality and civil rights. Acting Secretary Su’s resume and accomplishments on behalf of workers speak for themselves. She is an ideal candidate for labor secretary, and we urge you to support her confirmation.

In solidarity,



Elizabeth H. Shuler  
 President

Jason Ambrosi ALPA	Stuart Appelbaum RWDSU-UFCW	Michael Baldwin BRS
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John Costa ATU	Eric Dean Ironworkers	Bhairavi Desai NTWA
Fran Drescher SAG-AFTRA	Tim Driscoll BAC	Shawn Fain UAW
Carlo Fiorletta GIAA	Bob Foose MLSPA	James Hadel Roofers
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Donald Marcus MM&P	Robert Martinez Jr. IAM	Mark McManus UA
Ray Menard AGMA	Sara Nelson AFA-CWA	Terry O'Sullivan LIUNA
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Cecil Roberts UMWA	John Samuelsen TWU	Rich Santa NATCA
Lee Saunders AFSCME	Joseph Sellers SMART	Kevin Sexton OPCMIA
Anthony Shelton BCTGM	Christopher Shelton CWA	Kate Shindle AEA
James Slevin UWUA	Mark Spano Novelty & Production Workers	Robert Suplee IPPDSPM&E
D. Taylor UNITE HERE	Baldemar Velásquez FLOC	Adam Vokac MEBA
Adam Weinberger CSEA	Randi Weingarten AFT	James Williams Jr. IUPAT
Michael Winship WGAE		

CC: All Members of the US Senate



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New York, NY

Mike Yeatman  
Olympic, WA

AFSCME  
194-22

April 17, 2023

United States Senate  
Washington, D.C. 20510

Dear Senator:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I urge you to support the nomination of Julie Su as Secretary of the Department of Labor.

Since her confirmation in 2021, Deputy Secretary Su has provided expert leadership for the needs of America's workers and employers. She has been an innovative and collaborative Deputy Secretary who has focused increasing access to apprenticeships, growing our health care workforce, and expanding youth employment. Deputy Secretary Su has been at the front line of bringing our economy through uncertain times to successfully and skillfully meet the challenges we face.

She has worked in close partnership with Secretary Marty Walsh to foster a strong, resilient and vibrant economy centered on workers, which will enable a smooth leadership transition for the agency and a continuation of the agenda they both charted – one that will better protect workers from exploitation, but one that also has due regard for the regulated community and employers who are playing by the rules. This was her approach as Secretary of the California Labor and Workforce Development Agency and resulted in her being well respected by so many in the business community in her home state of California. It is clear that Deputy Secretary Su is someone who respects all stakeholders, including high-road employers who understand that their success is built by their workforces.

As Secretary of the California Labor and Workforce Development Agency, she oversaw state departments and boards that enforce labor laws, paid leave, unemployment insurance benefits, fund workforce training and apprenticeship programs, and arbitrate public sector contract disputes. As California Labor Commissioner from 2011 to 2018, she enforced labor laws and ensured fair and just workplaces for employees and their employers. During her impressive service to the state of California, she implemented the laws passed by the legislature fairly and expertly. As Litigation Director at Asian Americans Advancing Justice - Los Angeles, the nation's largest legal and civil rights organization for Asian Americans, Native Hawaiians and Pacific Islanders, she investigated, litigated and advocated to protect workers and their families. Early in her career in a landmark case, she fought

**American Federation of State, County and Municipal Employees, AFL-CIO**  
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

for justice for workers imprisoned in a modern-day sweatshop outside Los Angeles. She also co-founded Sweatshop Watch to counter inhumane working conditions in sweatshops.

Deputy Secretary Su has always fought to protect the most vulnerable workers throughout her career. She has championed labor rights. She is an incredibly well-qualified, thoughtful and talented public servant who was already confirmed by the Senate in 2021. I urge you to vote to confirm Julie Su for the critical role of Secretary of the Department of Labor.

Sincerely,



LEE SAUNDERS  
President

LS:LM:ei



April 20, 2023

United States Senate  
Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator:

On behalf of the 1.7 million members of the American Federation of Teachers, I urge you to support the nomination of Julie Su to be secretary of labor.

The work of the U.S. Department of Labor has never been more important as the country emerges from a global public health crisis and seeks to build an economy from the middle out where everyone has the freedom to thrive.

Su's commitment to workers is foundational to who she is. A daughter of immigrants, she started her career fighting for the rights of exploited immigrant workers. As California's secretary of labor, she championed all workers, whether they were low wage or middle class, public or private. She has nearly a decade of experience leading state labor agencies responsible for fair labor and workplace conditions.

Her extensive work in state government administration covered a range of issues that impact workers in their day-to-day lives, from their safety on the worksite to the implementation of state paid family leave benefits. A belief that both workers and employers should be able to have the information they need and have open channels of communication with the government defined her work in California. She is grounded in an understanding of the challenges that face employees and employers, whether they are the ones that come with public health emergencies, like COVID-19, or the workforce training needs of a constantly changing economy.

California, under Su's leadership, was one of a handful of states to institute on-the-job protections for workers affected by COVID-19. She also helped lead California's Future of Work Commission, which makes recommendations regarding the jobs Californians could have in the coming decades, the role of technology on workforce issues, and methods of promoting better job quality, wages and working conditions. Her tenure at the California Department of Labor was characterized by a commitment to enforcing the law and ensuring that workers and small businesses alike both knew and

The American Federation of Teachers is a union of professionals that champions fairness, democracy, economic opportunity, and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

American Federation  
of Teachers, AFL-CIO

AFT Teachers  
AFT PSRP  
AFT Higher Education  
AFT Public Employees  
AFT Nurses and Health  
Professionals

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Denise Specht  
Wayne Spence  
Arthur G. Steinberg  
Jessica I. Tang  
Adam Urbanski  
Debbie White, RN  
Carl Williams  
Sarah Wofford



U.S. Senate/Julie Su Nomination/Page 2

understood their rights and responsibilities under the law. The AFT's California affiliate, the California Federation of Teachers, has observed that Su has led the work for economic decency with dedication and cooperation.

The experience and values she brings has already been a tremendous asset to the Department of Labor. Over the last two years as deputy secretary, Su worked closely with former Secretary Marty Walsh. Her time in the department and ability to seamlessly transition from acting secretary of labor to secretary of labor would be a benefit to workers who deserve prompt department action. She has a proven track record of working at the state and federal level to build an economy grounded in the prosperity of working families. Having leaders at the department who are committed to the safety of all workers—whether they are serving in hospitals, schools or other essential services or working in industries with a history of legal violations—is crucial. Her experience will also aid the department in fighting the scourge of child labor.

Recovering from the COVID-19 pandemic and building a more inclusive economy will mean addressing current and future workers, including in helping them develop skills for the jobs of today and tomorrow. We know this quite well as educators. Indeed, our job is to help prepare students for life, career, college and citizenship. Su understands this and has dedicated the department to expand apprenticeship opportunities and other means of workforce development and high-quality career and technical education pathways in many venues—job training programs, school programs, and union and employer-based training programs, to name a few. Learning by doing (engaging all our youth in experiential learning is an essential component, as is starting by high school); identifying school-to-career pathways, including community colleges; partnering with employers; and ensuring the opportunities are paid and can be replicated everywhere are priorities, and Su has the experience and vision to help make this happen.

Whether it is ensuring that today's workplaces are safe or that workers are prepared for the jobs of tomorrow, the mission of the Department of Labor is vitally important. This is why we respectfully urge you to confirm Julie Su as secretary of labor without delay.

Sincerely,



Randi Weingarten  
President, American Federation of Teachers



April 18, 2023

Senator Bernie Sanders  
Chair  
Senate Committee on Health, Education, Labor  
and Pensions  
428 Dirksen Office Building  
Washington, DC 20510

Senator Bill Cassidy, M.D.  
Ranking Member  
Senate Committee on Health, Education, Labor  
and Pensions  
428 Dirksen Office Building  
Washington, DC 20510

**RE: Letter of Support for Julie Ann Su to Serve as U.S. Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

The Asian Pacific American Institute for Congressional Studies (APAICS) expresses its strong support for Julie Su's nomination to be the next U.S. Secretary of Labor.

APAICS is a national, non-partisan, nonprofit 501(c)(3) organization dedicated to promoting Asian American and Native Hawaiian/Pacific Islander participation and representation at all levels of the political process, from community service to elected office. In [February](#) this year, APAICS endorsed Acting Secretary Su.

When serving as Deputy Secretary of Labor over the past two years, Ms. Su worked directly with former Secretary of Labor Marty Walsh to resolve national crises and collaborated with leadership across government – both within the Executive and Legislative branches – to advance President Biden's Build Back Better agenda for a more inclusive economy.

Beyond her vast contributions at the Department of Labor, Ms. Su also has over 17 years of experience as a civil rights attorney and is widely supported across diverse communities. As representation of women, specifically women of color still lag in leadership in government, Ms. Su brings a critical insight in a space that lacks such views.

Ms. Su's experience and leadership make her the very best candidate for the U.S. Secretary of Labor. APAICS proudly supports her nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "Madalene Xuan-Trang Mielke". The signature is fluid and cursive.

Madalene Xuan-Trang Mielke  
President & CEO, APAICS

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 Nam Le, UFCW  
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**NATIONAL STAFF**

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 Vivian Chang, OPEIU  
 Sara Greiner, OPEIU  
 Kristina Romines, OPEIU



April 18, 2023

The Honorable Bernie Sanders  
 Chair, Committee on Health, Education, Labor & Pensions  
 United States Senate  
 428 Senate Dirksen Office Building  
 Washington, DC 20510

The Honorable Bill Cassidy  
 Ranking Member, Committee on Health, Education, Labor & Pensions  
 United States Senate  
 428 Senate Dirksen Office Building  
 Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

The Asian Pacific American Labor Alliance, AFL-CIO (APALA) is writing to express our strong support for the confirmation of Julie Su to serve as Secretary of the U.S. Department of Labor. As the first and only national organization of AAPI workers, we believe that Julie Su is uniquely well-suited to lead the Department of Labor in executing its mission to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States.

Julie Su has devoted her life to fighting for workers' rights, leveling the playing field for high-road employers, and doing pioneering work to protect the most vulnerable. Her work on the case of trafficked garment workers in 1995 contributed to the creation of seminal federal immigration protections for human trafficking victims, and she has continued advocating with immigrant worker communities like ours throughout her career. If confirmed to be the U.S. Secretary of Labor, Ms. Su would become the only Asian American head of a federal department.

Her experience in state government makes her well-positioned to manage the relationship between the US DOL and their numerous state-level counterparts. As Secretary for the California Labor and Workforce Development Agency, her leadership was critical in ensuring the protection of workers' health and safety during the COVID-19 pandemic while also promoting economic policies to support small businesses. Under her direction, the agency swiftly implemented necessary measures to provide financial relief to those affected by the pandemic.

At a critical time for the Department of Labor to continue supporting workers through the economic recovery from the COVID-19 pandemic, continuity of leadership will enable the DOL to best carry out its mission. Over the past two years, Deputy Secretary Su has proven herself to be an indispensable partner to Secretary Marty Walsh. She has a deep understanding of the inner workings of the DOL, its resources, and operations. Her proven track record as a leader at the Department will enable a smooth leadership transition for the agency and a continuation of the agenda they charted together with President Biden.

APALA stands in strong support of Julie Su to serve as the Secretary of the U.S. Department of Labor. We urge the HELP Committee to swiftly advance her nomination to a vote on the Senate floor and for the Senate to confirm Julie Su without delay.

Sincerely,  
 Alvina Yeh, Executive Director  
 Asian Pacific American Labor Alliance, AFL-CIO



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**Headquarters:**  
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Main 415-954-9988  
[www.apiahf.org](http://www.apiahf.org)

April 18, 2023

Senator Bernie Sanders  
Chair  
Senate Committee on Health,  
Education, Labor and Pensions  
428 Dirksen Office Building  
Washington, DC 20510

Senator Bill Cassidy, M.D.  
Ranking Member  
Senate Committee on Health,  
Education, Labor and Pensions  
428 Dirksen Office Building  
Washington, DC 20510

**RE: Letter of Support for Julie Ann Su to Serve as U.S. Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

The Asian & Pacific Islander American Health Forum (APIAHF) strongly endorses Julie Ann Su as the next Secretary of Labor. Currently, Ms. Su is serving as the Acting Secretary of Labor.

APIAHF is the oldest and largest health advocacy organization working with AA & NH/PI communities across the nation, in all 50 states, US Territories, and with the US-affiliated Pacific jurisdictions. The organization influences policy, mobilizes communities, and strengthens programs and organizations to improve the health of Asian Americans & Native Hawaiians/Pacific Islanders.

Ms. Su's comprehensive legal experience and strong support of civil rights make her the best candidate for the U.S. Secretary of Labor.

As current Acting Secretary and former Deputy Secretary of Labor, Ms. Su has successfully carried out and advanced many of the Biden administration's initiatives within the Department of Labor. Prior to serving in the Senate-confirmed position, Ms. Su served as Secretary of the California Labor and Workforce Development Agency, the largest state labor department in the nation.

As the COVID-19 pandemic has shown over the course of the past three years, health and the workforce are continuously intertwined. Ms. Su is the fierce leader our country needs to support workers and businesses alike. The Asian & Pacific Islander American Health Forum proudly supports her nomination.

Sincerely,

Juliet K. Choi  
President and CEO  
Asian & Pacific Islander American Health Forum (APIAHF)



www.apiavote.org  
info@apiavote.org  
(202) 223-9170

1612 K St. NW  
Suite 600  
Washington D.C. 20006

---

Apr 19, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of Asian and Pacific Islander American Vote (APIAVote) and the undersigned organizations representing our partners in Asian American and Pacific Islander communities across the country, we write to express our strong support for the confirmation of Julie Su to be the next U.S. Secretary of Labor.

At the Department of Labor (DOL), Ms. Su worked closely with Secretary Walsh to avert a nationwide railroad strike, improve labor standards enforcement to protect the most vulnerable workers, and modernizing workforce development programs. Since her confirmation as the Deputy Secretary at the DOL in 2021, she has managed over 16,000 federal employees and a budget of over \$14 billion. Prior to her current role as Deputy Secretary, she served as Secretary for the California Labor and Workforce Development Agency. Ms. Su led the largest state labor department in the United States, managing a governmental agency of over 11,000 employees for the most populous state in the nation. Her combined federal and state service now puts her in position to continue to deliver on labor, workforce, and employment goals for the nation.

Ms. Su's work as the California Labor Commissioner for nearly a decade brought praise from both workers' advocates and the business community for her effectiveness in governance and enforcement, promoting fairness for both workers and employers. In addition to her work and leadership in labor law and policy, she has had extensive experience as a civil rights lawyer who has worked in coalitions representing all Americans including African American, Latino, Asian American and LGBTQ



communities. Among Ms. Su's first legal cases when she was just beginning her law career was the groundbreaking lawsuit protecting Thai immigrant garment workers who were victims of egregious wage and hour violations, and human trafficking. Her effectiveness as a litigator brought forth a multimillion-dollar settlement and protected the rights of the most vulnerable workers in our country as well as paving the way for protections for immigrant human trafficking survivors.

Ms. Su's work history clearly shows how well qualified she is to lead the U.S. Department of Labor. Her personal history as a daughter of immigrants, a woman of color, and an Asian American makes her uniquely qualified to lead the Department. We urge a quick and favorable confirmation of Julie Su as our next U.S. Secretary of Labor.

Sincerely,

Asian and Pacific American Islander Vote (APIAVote)

AAPI Coming Together  
 AAPI Montclair  
 American Muslim Voice Foundation  
 APIAVote-MI  
 Arizona Asian American Native Hawaiian Pacific Islander for Equity  
 Asian Americans United  
 Asian Business Association  
 Asian Business Association San Diego  
 Asian Community Development Council  
 Asian Counseling and Referral Services (ACRS)  
 Asian Law Alliance  
 Asian Pacific Islander Council of San Francisco (API Council)  
 Asian Services in Action (ASIA)  
 Asian Texans for Justice  
 AZ AANHPI for Equity  
 Center for Asian Americans United for Self Empowerment (CAUSE)  
 Chinese-American Planning Council  
 Filipino American Association of WI  
 Fort Lee Chinese Americans  
 Hamkae Center  
 Make Us Visible NJ  
 MinKwon Center for Community Action  
 Missouri Asian American Youth Foundation



Monsoon Asians & Pacific Islanders in Solidarity  
National Federation of Filipino American Associations (NaFFAA)  
National Federation of Filipino American Associations (NaFFAA) Region 5  
NANAY INC  
National Assoc. of Asian American Professionals (NAAAP) Orlando Chapter  
NCAAT in Action  
North Texas APAPA  
OCA-Greater Houston  
OCA-WI  
Orange County Asian and Pacific Islander Community Alliance (OCAPICA)  
Pi Delta Psi Foundation  
Ridgewood AAPI  
Ridgewood High School Korean Parents Association  
Southeast Asian Mutual Assistance Association Coalition (SEAMAAC), Inc.  
Sparks Magazine  
SOUTH ASIAN NETWORK  
TARGETOHIO  
United Chinese Americans (UCA)  
Vietnamese American Roundtable  
Vietnamese Voluntary Foundation  
Vietlead

April 14, 2023

**The Honorable Bernie Sanders**  
Chairman  
U.S. Senate Committee on Health,  
Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

**The Honorable Bill Cassidy**  
Ranking Member  
U.S. Senate Committee on Health,  
Education, Labor and Pensions  
520 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Sanders and Ranking Member Cassidy:

We are writing you as Arizona small business owners in support of the nomination of Julie Su to serve as Secretary of the U.S. Department of Labor.

We have each made significant efforts to treat our workers well and ensure that they can share in the success of our businesses and have a voice on the job. We believe that the Department of Labor has an essential role to play in creating a level playing field, ensuring that all workers are afforded basic protections, and in helping businesses navigate federal rules to ensure that we can comply with federal rules without having to navigate a complicated system. We believe that Deputy Secretary Su will be helpful in all of these areas.

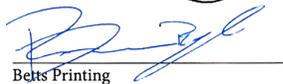
Su has shown a lifelong commitment toward ensuring that all workers are treated fairly. Before starting her work in public service, she was well known for her successful advocacy on behalf of migrant garment workers who had been working in sweatshops. She has continued that advocacy on behalf of the most marginalized workers while serving the state of California and, most recently, as Deputy Secretary of Labor.

At the same time, Su is well known for treating businesses fairly in the process to ensure that we can be good partners and comply successfully with labor rules. As California Labor Secretary, she was known for her advocacy for labor-management partnerships in expanding new apprenticeship programs to grow employee skills. She also helped lead the state's Future of Work Commission. This advocacy to ensure that high-road businesses can succeed has resulted in the Los Angeles Area Chamber of Commerce, who has more experience than anyone working with her, to support her nomination.

We believe that Julie Su is highly qualified and will do an excellent job of ensuring that both workers and businesses are treated fairly. Therefore, we urge you to support her nomination as Secretary of Labor.

Sincerely,

  
The Glog Factory

  
Betts Printing

  
J & R Graphics and Printing

\_\_\_\_\_

Cc: Senator Mark Kelly, Senator Kyrsten Sinema



April 19, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education, Labor & Pensions United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member, Committee on Health, Education, Labor & Pensions United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of the Asian American Scholar Forum (AASF), I write to express our strong support for the confirmation of Ms. Julie Su to serve as the next U.S. Secretary of Labor.

AASF is a national non-profit and non-partisan organization that works to promote academic belonging, openness, freedom and equality for all. AASF accomplishes this through education, research, advocacy and empowering leaders within the Asian American scholar community. We aim to provide a crucial voice and create a bridge for the scientific, legal and advocacy community. AASF membership includes members from the National Academy of Engineering, the National Academy of Medicine, the National Academy of Science and the American Academy of Arts & Sciences members, in addition to past and current university presidents, provost, vice provosts, deans, associate deans and past and current department chairs. AASF has eleven Asian American partnering associations representing more than 7,000 Asian American scholars. AASF is currently an organizational member of the National Council of Asian Pacific Americans (NCAPA), a coalition of some of the most prominent and oldest national Asian Pacific American organizations across the country.

Ms. Su's confirmation would be historic for the Asian American community. If confirmed as the U.S. Secretary of Labor, she would become the only Asian American head of a federal department. Ms. Su has a long history of public service working to advance the civil rights of vulnerable communities, beginning her career as a litigator for worker's rights at Asian Americans Advancing Justice Southern California (AJSOCAL). During her time with the federal government, she worked tirelessly to revitalize federal-state-local partnerships to strengthen workforce development programs that resulted in good-paying jobs, remains committed to proactively engaging small business stakeholders, and has strong support from the business community who worked with her on workforce development and untangling port and supply chain problems during COVID.

We at the AASF commend Ms. Su's nomination and urge our Senators to move forward with her confirmation as the next U.S. Secretary of Labor.



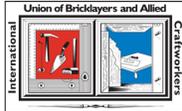
Sincerely,

A handwritten signature in black ink, which appears to read "Gisela P. Kusakawa". The signature is fluid and cursive.

**Gisela Perez Kusakawa, Esq.**

Executive Director

Asian American Scholar Forum



**International  
Union of Bricklayers  
and Allied Craftworkers**

---

**Timothy J. Driscoll**  
President

April 17, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education  
Labor and Pensions (HELP)  
428 Senate Dirksen Office Building  
Washington, D.C. 20510

Dear Chair Sanders:

On behalf of the International Union of Bricklayers and Allied Craftworkers (BAC) and our 75,000 members in the United States, I am writing to express our strong support for the nomination of Julie Su to be the next Secretary of the U.S. Department of Labor (DOL).

Secretary Marty Walsh and Deputy Secretary Su have been great partners as they have worked together to fulfill the DOL's mission to protect the rights of working families. They have effectively represented workers, the business community and all of DOL's stakeholders. The confirmation of Deputy Secretary Su will ensure a smooth transition for the Department and the people it serves.

As Deputy Secretary, Julie has served as Chief Operating Officer of DOL, managing the Department's over \$14 billion budget and more than 16,000 federal employees. She has expertise on the laws and programs under the Department's jurisdiction and first-hand experience making the Department work efficiently. This combined with her experience as Secretary of the California Labor and Workforce Agency make her uniquely qualified to hit the ground running and continue the work of Secretary Walsh and the Biden Administration.

We urge the HELP Committee to act swiftly to advance her nomination to the Senate floor, and we urge the Senate to vote to confirm her.

Sincerely,

Timothy J. Driscoll  
President

March 10, 2023

Dear Chairman Sanders and Ranking Member Cassidy:

I write to support the nomination of Julie A. Su to be Secretary of Labor.

I have known Julie for more than 30 years since we were students and roommates at Harvard Law School. From the moment I met her, it was clear to me that Julie was in law school not to advance herself but to help others.

Upon graduation, when our classmates headed off to prestigious clerkships or jobs at high paying law firms, Julie returned home to California to represent the less fortunate. She began her career representing several dozen Thai immigrants who had been kept captive and forced to perform sweatshop labor seven days a week. Julie not only helped the garment workers obtain compensation for their labor, she helped them obtain citizenship and settle into life in America. Julie took her role as advocate seriously, forming strong bonds with the workers, many of whom came to regard Julie not just as their representative but also as their friend.

Since that time, Julie has continued to work to make the American dream a reality for immigrants, people of color, and working people. In her 17 years as a civil rights attorney and her work as labor commissioner for the state of California, head of the California Department of Labor, and Deputy Secretary of Labor in the current administration, Julie has made her commitment to American workers clear.

Julie and I often disagree on politics and public policy, and I am aware that Independent Women's Voice, an organization with which I am affiliated, opposes her nomination. But I write in my individual capacity to express my complete confidence in Julie's leadership, her willingness to listen to opposing viewpoints, and her commitment to helping the American worker.

I urge you to act swiftly and without delay to confirm Julie A. Su as the next U.S. Secretary of Labor.

Jennifer C. Braceras  
Former Member, United States Commission on Civil Rights  
(appointed by President George W. Bush)

April 19, 2023

Honorable Bernie Sanders, Chair  
U.S. Senate Committee on Health, Education, Labor & Pensions  
United States Senate  
Washington, D.C. 20510

Honorable Bill Cassidy, Ranking Member  
U.S. Senate Committee on Health, Education, Labor & Pensions  
United States Senate  
Washington, D.C. 20510

**Re: Nomination of Julie Su as Secretary of U.S. Department of Labor**

Dear Chairman Sanders and Ranking Member Cassidy:

As members of the legal team that litigated the historic case of the El Monte Thai workers, *Bureerong v. Uvawas*, we write to address Julie Su's role in the litigation.

We all worked on different aspects of the case, and may not each be able to attest to all of the facts, but collectively we worked on everything. Julie was instrumental in every aspect of the representation of the El Monte workers in the *Bureerong* litigation. As the one lawyer who was on the ground meeting with the workers immediately after the August 2, 1995 raid, she was a fierce advocate for the workers throughout the many years of litigation. She was critical in developing legal theories of the case, drafting the complaint and all subsequent motions, working with the workers to answer hundreds and hundreds of questions posed by the defendants in discovery, preparing the workers for depositions and defending their depositions, engaging in settlement negotiations, communicating with the workers about the progress and options in the case, and in every other facet of the case. Like any other complex matter, this case involved the work of dozens of people—lawyers, community advocates, volunteers, and others—but Julie was a central, indispensable, and highly effective leader of this effort.

In addition to the efforts to recover wages for the El Monte workers, we knew that getting legal status for the workers would be a formidable challenge. There, too, Julie took the lead with fearlessness and creativity, finding the option of getting S-visas and working with federal law enforcement who were prosecuting the case to secure them for the workers. This was the first time S-visas had been used in this way, and it established a template for the development of T-visas, for trafficked persons, some years later.

We all worked closely with Julie on this case and were proud to do so. Some of us were there at the very beginning of the case, while others of us were inspired to join Julie as she continued to build a legal team for the workers worthy of the battle she knew had to be fought. We all know her to be a person of great integrity, character, and efficacy. She was very early in her career when this case happened and the record she has built since – fighting for working people, building coalitions, and finding solutions to intractable problems—is not a surprise to any of us. She would make a remarkable Secretary of Labor.

Della Bahan Barnett  
Formerly of Rothner Segall Bahan & Greenstone

Daniel Tokaji  
Fred W. & Vi Miller Dean of University of Wisconsin Law School\*  
Formerly of ACLU Foundation of Southern California

David S. Schwartz  
Foley & Lardner Bascom Professor of Law, University of Wisconsin Law School\*  
Formerly of ACLU Foundation of Southern California

Mark Rosenbaum  
Director, Public Counsel Opportunity Under Law, Public Counsel\*  
Formerly of ACLU Foundation of Southern California

Mark T. Dooks  
Principal, Bird Marella Boxer Wolpert Lincenberg Dooks & Rhow\*

Ekwan E. Rhow  
Principal, Bird Marella Boxer Wolpert Lincenberg Dooks & Rhow\*

Lora Jo Foo  
Formerly of Asian Law Caucus

Laura Ho  
Partner, Goldstein, Borgen, Dardarian & Ho\*  
Formerly of Asian Law Caucus

Leti Volpp  
Robert D. and Leslie Kay Raven Professor of Law in Access to Justice, UC Berkeley School of Law\*  
Formerly of Equal Rights Advocates and ACLU Immigrants' Rights Project

Muneer I. Ahmad  
Sol Goldman Clinical Professor of Law, Yale Law School\*  
Formerly of Asian Pacific American Legal Center

\* Institutional affiliation for the purpose of identification only.

The Honorable Bernie Sanders  
Chairman  
Senate Committee on Health, Education &  
Labor

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education &  
Labor

April 18, 2023

Dear Chairman Sanders and Ranking Member Cassidy,

We write to you to express our support for the nomination and swift confirmation of Deputy Secretary Julie Su to serve as the next Secretary of Labor. Our organizations represent the voices of America's diverse small businesses, including AAPIs, Black, Hispanic and women entrepreneurs. She has played a critical role in shepherding the Good Jobs Initiative and implementing important economic legislation such as the CHIPS and Science Act and the Bipartisan Infrastructure Law. Her efforts are ensuring that the benefits of these laws are accessible to the small business community.

Over the past two years, Deputy Secretary Su has established herself as a strong leader for workers as she's led the U.S. Department of Labor alongside Secretary Marty Walsh. In her time as Deputy Secretary, and now Acting Secretary, Su has overseen several unprecedented workforce challenges, including the COVID-19 pandemic, labor shortages and disruptions to the supply chain which challenged both workers and employers to continue running businesses. Furthermore, her confirmation would make her the first Cabinet Secretary of AAPI descent to serve in the Biden Administration.

Prior to her role as Deputy Secretary of Labor, she served as the Secretary of the California Labor and Workforce Development Agency, where she oversaw important initiatives such as the California Future of Work Commission, which proposed ideas to help the workforce of the future, such as creating a "California Job Quality Index" to define high-quality jobs and help workers know who are good employers offering good benefits. Deputy Secretary Su is the daughter of Chinese immigrants and small business owners, and understands the unique challenges that small businesses deal with on a daily basis to scale, and keep their doors open.

It is clear that the Deputy Secretary possesses the experience necessary to lead the Department of Labor at a critical time both for workers and businesses, and to meet the needs of the workforce of the future.

In 2021, the Senate confirmed Julie Su to serve as Deputy Secretary of Labor in a 50-47 vote. We urge the Senate to swiftly confirm Deputy Secretary Su to serve as Secretary of Labor so that she can continue to lead the Department at this critical time for small businesses and entrepreneurs.

Sincerely,

African American Alliance of CDFI  
National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship  
National Association for Latino Community Asset Builders (NALCAB)  
National LGBT Chamber of Commerce (NGLCC)  
Pacific Community Ventures  
Prosperity Now  
Operation HOPE  
Small Business for America's Future  
Snowy Mountain Development Corporation  
Snowy Mountain Development Regional Port Authority  
United States Hispanic Chamber of Commerce (USHCC)  
Women Impacting Public Policy

Cc: members of the Senate Committee on Health, Education and Labor



April 20, 2023

The Honorable Bernie Sanders  
Chairman, HELP Committee  
428 Senate Dirksen Office Building  
Washington, DC, 20510

The Honorable Dr. Bill Cassidy  
Ranking Member, HELP Committee  
428 Senate Dirksen Office Building  
Washington, DC, 20510

**RE: Letter of Support for Nominee Julie Su for Secretary of Labor**

Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the Coalition for Humane Immigrant Rights (CHIRLA), a statewide immigrant rights organization based in California with national impact, I write in strong support of Julie Su, President Joe Biden's nominee for U.S. Secretary of Labor. The mission of the Department of Labor is to strengthen the US labor force, improve working conditions, and protect the rights of workers, job seekers and retirees. Ms. Su has served as U.S. Deputy Labor Secretary for the past two years and is currently serving as acting Secretary of Labor since March 2023 following the departure of Secretary Marty Walsh. CHIRLA firmly believes that Ms. Su has the experience and expertise to take on this role more permanently, to help advance the U.S. workforce and build a stronger, more resilient economy that works for everyone.

Prior to joining the Biden administration as U.S. Deputy Labor Secretary, Ms. Su served as Secretary for the California Labor and Workforce Development Agency- the largest state labor department in the country - from 2019 until 2021 and as California Labor Commissioner from 2011 to 2018. Early in her career she served as an attorney for the civil rights organization Asian Pacific American Legal Center, now known as Asian Americans Advancing Justice-California.





Ms. Su has spent her entire career championing underrepresented workers and has fought alongside them for good jobs and safe working conditions. She has a deep understanding of the unique vulnerabilities of certain workers and has taken strong action against wage theft, retaliation and other labor exploitation, working with immigrant workers and workers of color in California. Most notably, in 1995 CHIRLA and a coalition of civil, immigrant, workers' rights organizations worked with Ms. Su on a garment sweatshop case involving Thai immigrants held captive in El Monte, California. The El Monte case is one of the many groundbreaking efforts she has championed – as lead attorney- to protect vulnerable workers against unfair labor practices. Through her steadfast work, she helped recover over \$4 million in back wages through litigation. Subsequently, California passed legislation that expanded manufacturer and retailer liability for wage theft when they contract with sweatshops.

The nomination of Ms. Su to lead the Department of Labor is a positive step forward for the country as she is exceptionally qualified for this position. She has a deep understanding of the inner workings of the Department of Labor including the day-to-day operations, and most importantly she brings a deep familiarity and a vision centered around protecting and advancing the rights of workers.

We are confident that Ms. Su's decades of experience, expertise and readiness will help advance President Biden's agenda to build back better. Therefore, we ask that this Committee and the full U.S. Senate act without delay towards a swift confirmation of Julie Su as U.S. Secretary of Labor.

If you have any questions please contact Luz Castro, Deputy Director of National Policy and Advocacy at [L.Castro@chirla.org](mailto:L.Castro@chirla.org).

Sincerely,

Coalition for Humane Immigrant Rights (CHIRLA)





April 14, 2023

The Honorable Bernie Sanders  
 Chairman  
 Committee on Health, Education, Labor, and  
 Pensions  
 United States Senate  
 323 Dirksen Building  
 Washington, D.C. 20510

The Honorable Bill Cassidy  
 Ranking Member  
 Committee on Health, Education, Labor, and  
 Pensions  
 United States Senate  
 455 Dirksen Senate Office Building  
 Washington, D.C. 20510

Dear Chairman Sanders and Ranking Member Cassidy:

As a broad-based group of more than 60 impact-oriented business and investor organizations advocating on a range of topics, including worker empowerment, the Coalition on Inclusive Economic Growth writes in strong support of Julie Su's nomination to be Secretary of the Department of Labor.

The Coalition was specifically formed to coordinate public and private sector action to tackle the structural and long-term challenges facing our economy to generate inclusive economic growth for American workers, communities, businesses and investors. The Coalition stands ready to partner with government to manifest a coordinated, forward-looking approach to the structure and rules governing our capital markets alongside a renewed commitment to invest in strong, sustainable communities.

In addition to lifting up workers, Deputy Secretary Su has dedicated her decades-long career to addressing these problems as a civil rights attorney, worker advocate and Secretary of Labor for the state of California. Given this and her strong track record in just over two years as Deputy Secretary of Labor, we believe she will be an outstanding leader of this critical agency.

During her tenure at the Department, among her many accomplishments, Deputy Secretary Su helped develop and rollout the Department's Good Jobs Initiative to help ensure that investments from historic, bipartisan legislation such as the Infrastructure Investment and Jobs Act of 2021 and the CHIPS and Science Act generate jobs that are good paying, sustainable and accessible to all. She also helped oversee the Department's new rule enabling ERISA fiduciaries to consider environmental, social and governance risk factors when managing retirement plans, which is critically important. This is exactly the kind of leader our country needs now; someone with a track record of results in a position to affect large scale change to allow businesses, private investors, and the capital markets to better contribute to the prosperity of workers and communities.

Deputy Secretary Su has proven she is the right person to be the next Secretary of Labor, committed to helping foster an inclusive economic system for all Americans. For these reasons, we respectfully request that the Committee swiftly consider and advance her nomination to the



full Senate so that we can continue confronting barriers to American innovation and competitiveness.

Sincerely,

The Coalition on Inclusive Economic Growth, including the undersigned organizations:

Aspen Institute Economic Opportunities Program  
B Lab U.S. & Canada  
Change Finance, PBC  
Florida for Good  
Oxfam America  
Pacific Community Ventures  
PolicyLink  
Project Equity  
Social Finance  
U.S. Impact Investing Alliance



**Committee of 100**

EXTRAORDINARY CHINESE AMERICANS  
Ensuring Full Inclusion in America,  
Advancing U.S.-China Relations

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(Chair)  
Debra Wong Yang  
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Nancy Yuan  
Eric Zheng

**President:**  
Zheng Yu Huang

**Committee of 100**  
Church Street Station  
PO Box 3504,  
New York, New York 10008  
WWW.COMMITTEE100.ORG

April 14, 2023

The Honorable Bernie Sanders  
Chair  
U.S. Senate Committee on Health, Education, Labor & Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

The Honorable Bill Cassidy  
Ranking Member  
U.S. Senate Committee on Health, Education, Labor & Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

Dear Chairman Sanders, Ranking Member Cassidy, and Members of the Senate Committee on Health, Education, Labor & Pensions:

I write today to urge you to advance the nomination of Deputy Secretary of Labor Julie A. Su to serve as the next Secretary of the U.S. Department of Labor to the full Senate. Deputy Secretary Su is an experienced public servant, a devoted advocate for America's workers, and a respected representative of the Asian American, Native Hawaiian, and Pacific Islander (AANHPI) community. Most importantly, she is exceptionally qualified and uniquely equipped for this role. Committee of 100 offers its strongest recommendation for Deputy Secretary Su's confirmation.

Committee of 100 is a nonprofit organization of prominent Chinese Americans in government, business, academia, and the arts. Formed in the aftermath of Tiananmen Square at the recommendation of Dr. Henry Kissinger, Committee of 100 promotes constructive dialogue between the U.S. and China and the full inclusion of Chinese Americans in all aspects of American life.

Deputy Secretary Su's career fighting for workers' rights and tenure in the Labor Department have prepared her well to take on this role. As a civil rights attorney and the Secretary of the California Labor and Workforce Development Agency, she fought on behalf of the most marginalized and disenfranchised communities. From her leadership in the anti-sweatshop movement to her campaign against wage theft, Deputy Secretary Su has proved to be an effective advocate for America's workers. Her experience is especially important for immigrant workers, who like many in our community, face discrimination or do not have the resources to advocate for themselves. In the federal government, Deputy Secretary Su has led with distinction. She has already helped lead the implementation of many of the Administration's top priorities and will hit the ground running as Secretary.

Deputy Secretary Su's appointment would also advance efforts toward improving AANHPI representation. While we appreciate existing endeavors to form a more



Committee of 100

EXTRAORDINARY CHINESE AMERICANS  
Ensuring Full Inclusion in America.  
Advancing U.S.-China Relations

Committee of 100  
Church Street Station  
PO Box 3504,  
New York, New York 10008  
WWW.COMMITTEE100.ORG

inclusive government that reflects the diversity of our nation, there remains a glaring omission in AANHPI representation at the Secretary level. Her personal background as the daughter of immigrants and an Asian American woman of color means she not only sees our community, but she has lived the experiences of our community. This vacancy offers the opportunity to demonstrate America's commitment to diversity across all levels of government.

The U.S. government and our nation as a whole will benefit greatly from Julie Su's leadership as Secretary of Labor. Having known and worked with her for years, Committee of 100 members know firsthand that she will be a dynamic and impressive cabinet official. We urge the Committee to advance Deputy Secretary Su's nomination to serve as the next U.S. Secretary of Labor to the full Senate. Thank you for your consideration.

Sincerely,

Gary Locke  
U.S. Ambassador to China (2011–2014)  
U.S. Secretary of Commerce (2009–2011)  
Governor, State of Washington (1997–2005)

CC:

The Honorable Patty Murray  
The Honorable Robert P. Casey, Jr.  
The Honorable Tammy Baldwin  
The Honorable Christopher Murphy  
The Honorable Tim Kaine  
The Honorable Maggie Hassan  
The Honorable Tina Smith  
The Honorable Ben Ray Lujan  
The Honorable John Hickenlooper  
The Honorable Ed Markey  
The Honorable Rand Paul  
The Honorable Susan Collins  
The Honorable Lisa Murkowski  
The Honorable Mike Braun  
The Honorable Roger Marshall, M.D.  
The Honorable Mitt Romney  
The Honorable Tommy Tuberville  
The Honorable Markwayne Mullin  
The Honorable Ted Budd



**Communications Workers of America**  
Chris Shelton | *President*

**Government Affairs Department**  
Dan Maurer | *Director*

April 12, 2023

The Honorable Bernie Sanders  
Chairman  
Committee on Health, Education, Labor and  
Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education, Labor and  
Pensions  
United States Senate  
Washington, D.C. 20510

Dear Chair Sanders and Ranking Member Cassidy,

On behalf of the members and officers of the Communications Workers of America (CWA), I am writing to express our strong support for the confirmation of Julie Su to serve as the next Secretary of the U.S. Department of Labor.

Su, who was confirmed as Deputy Secretary in 2021, has worked alongside with Secretary Walsh to set an agenda that supports working people and elevates the rights and power of workers. Her experience as a leader at DOL will enable a smooth leadership transition for the agency and a continuation of the agenda they both developed, one that will better protect workers from exploitation, hold employers accountable and promote union membership and collective bargaining. Under their leadership at DOL, once-in-a-generation investments from the bipartisan Infrastructure Investments and Jobs Act, CHIPS Act, and Inflation Reduction Act will be used to create good, family-supporting jobs for workers across the country. Additionally, Su has led the development of President Biden's Good Jobs Initiative, which improved job standards in government contracting and grant making, provided workers with critical information about their rights, and ensured that the opportunities created by historic investments are all-inclusive.

Su has a concrete track record for fighting for workers' rights, leveling the playing field for high-road employers, and protecting the most vulnerable workers. As California's Labor Secretary, she was successful in enforcing labor laws, including minimum wage and occupational safety standards, paid leave and unemployment insurance benefits, protecting injured workers and combatting wage theft. She led a statewide campaign to educate low-wage

workers and their employers on their labor rights to ensure that workers feel safe when speaking up about labor law abuses. Meanwhile, she worked closely with both labor and business to expand the state's high-road apprenticeship programs to equip more workers with the skills they need.

CWA members have first-hand experience with Su's commitment to and skill in advocating for workers. During the pandemic, she launched a full investigation of a COVID outbreak at a San Diego call center and she ensured that the state's workshare payments as part of the COVID crisis were sent promptly to workers who had lost hours as a result of the crisis. Further, when NewsGuild-CWA members at the L.A. Times had trouble getting payments from the State of California as part of their workshare program, they reached out to Su and she stepped in promptly to successfully resolve the issue. She responded swiftly to AT&T's layoffs of hundreds of CWA members in California by holding a town hall with those workers immediately to inform them about the resources available to them from the state to help with their financial situations and finding new jobs.

Throughout her career, Su has done incredible work to tackle the inequities faced by working families, rebuild the middle class, and ensure the most vulnerable workers are protected. She has a proven track record for fighting for workers and securing fair labor and workplace conditions for workers and businesses. Therefore, we strongly urge the HELP Committee to swiftly advance her nomination to a vote on the Senate floor. Thank you for your consideration.

Sincerely,



Dan Mauer  
Director of Government Affairs  
Communications Workers of America (CWA)



## Economic Policy Institute

April 19, 2023

The Honorable Bernie Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Julie Su to serve as Secretary of the U.S. Department of Labor**

Dear Chair Sanders, Ranking Member Cassidy, and Members of the Committee:

On behalf of the Economic Policy Institute, we write to you in strong support of the confirmation of Julie Su to serve as Secretary of the U.S. Department of Labor. The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-income workers in economic policy discussions. EPI conducts research and analysis on the economic status of working America, proposes public policies that protect and improve the economic conditions of low- and middle-income workers, and assesses policies with respect to how well they further those goals. As such, we have a keen interest in the Department of Labor's ability to carry out its mission to protect workers' rights and expand opportunities for good jobs.

We strongly urge the HELP Committee to swiftly advance Julie Su's nomination to a vote on the Senate floor. Deputy Secretary Su is a brilliant and dedicated public servant, a committed partner to workers and businesses, and a uniquely qualified candidate to serve as Secretary.

Since her initial confirmation as Deputy Secretary of DOL in 2021, Deputy Secretary Su has been an indispensable partner to previous Labor Secretary Marty Walsh, as the Department of Labor supported workers through the economic recovery from the COVID-19 pandemic. The results of this recovery agenda speak for themselves – the unemployment rate is [currently at a near-historic low](#), and [low-wage workers in particular have recently seen the strongest wage gains](#) of all income groups in this recovery. Deputy Secretary Su is the right person to lead the Department's role in continuing that trajectory.

The Department of Labor has an important role to play in several ongoing initiatives related to the economic recovery, including expanding apprenticeship/workforce training programs, and federal investments in key sectors impacted by the Bipartisan Infrastructure Law, the CHIPS Act, and the Inflation Reduction Act. As Secretary, Deputy Secretary Su would also be well-positioned to continue her work implementing components of recommendations from the White House Task Force on Worker Organizing and Empowerment and of the administration's [Good Jobs Initiative](#).

DOL and the Department of Health and Human Services also [recently announced joint initiatives to combat exploitative child labor violations](#), which is particularly critical with violations of child labor laws up 69 percent since 2018, and in light of [ongoing attempts to weaken or roll back long-established child labor protections](#). In addition to her leadership role at the Department on this issue, Deputy Secretary Su has a long track record of experience protecting the most vulnerable of workers, going back to her seminal legal work [defending garment workers who were victims of human labor trafficking](#).

**Economic Policy Institute**

1225 Eye St. NW, Suite 600, Washington, DC 20005 • 202-775-8810 • epi.org

**Economic  
Policy  
Institute**

Deputy Secretary Su's experience in state government has also left her well-positioned to manage the relationship between the U.S. DOL and their numerous state-level counterparts. The Department of Labor needs close, effective collaboration with state and local government partners on enforcement, improvement, modernization, and administration of unemployment insurance, workforce training programs, and more. Her knowledge of the resources and operations of both the U.S. DOL and state counterparts will ensure this work continues smoothly.

We appreciate your thoughtful consideration of Ms. Su's nomination in her confirmation hearing this week.

Sincerely,

Heidi Shierholz  
President  
Economic Policy Institute

Samantha Sanders  
Director of Government Affairs & Advocacy  
Economic Policy Institute

**Economic  
Policy  
Institute**



April 18, 2023

The Honorable Bernie Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Julie Su to serve as Secretary of the U.S. Department of Labor**

Dear Chairman Sanders, Ranking Member Cassidy, and Members of the Committee:

We, the 94 undersigned organizations, write to you to urge the Committee to advance, without delay, the confirmation of Julie Su to serve as Secretary of the U.S. Department of Labor. We represent groups committed to centering worker rights and economic justice in policy at the federal, state, and local level.

The Department of Labor's (DOL) basic mission is "to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights." Few people are as uniquely well-suited to lead the Department of Labor in executing this mission as Julie Su. She has devoted her life to fighting for workers' rights, holding exploitative employers accountable, leveling the playing field for high-road employers, and doing pioneering work to protect the most vulnerable of workers.

Over the past two years, Deputy Secretary Su has proven herself to be an indispensable partner to Secretary Marty Walsh. Her recent experience and proven track record as a leader at the Department of Labor will enable a smooth leadership transition for the agency and a continuation of the agenda they both charted, one that will better protect workers from exploitation, but one that also has due regard for the regulated community and employers who are playing by the rules. Indeed, that is why Deputy Secretary Su is so well respected by so many in the business community in her home state of California, because she is someone who respects all stakeholders, including high-road employers who understand that their success is built by and with their workforces.

This is a critical time for the Department of Labor to continue supporting workers through the economic recovery from the COVID-19 pandemic. DOL's key priorities in the coming years include:

- Finalizing the regulations that define who is an employee and who is an independent contractor, consistent with decades of Supreme Court precedent. It should be noted that contrary to the loud and specious allegations of some in the business community, the proposed regulation explicitly stated that DOL has no legal authority to adopt the so-called "ABC test" to determine employee status, showing proper respect for well-established federal law.

# Economic Policy Institute



- Efforts to modernize the unemployment insurance program, with a particular eye toward making it more impervious to fraud and more equitable in how benefits are paid.
- Implementing action items from the White House Task Force on Worker Organizing and Empowerment.
- Implementing components of the [Good Jobs Initiative](#).
- Carrying out recently-announced interagency initiatives between DOL and the Department of Health and Human Services in order to combat exploitative child labor violations.
- Improving access to good-paying jobs through workforce development programs, expanding pre-apprenticeship and apprenticeship opportunities, and addressing workforce needs in sectors impacted by recent federal investments in the Infrastructure Investment and Jobs Act, CHIPS Act, and Inflation Reduction Act.

Continuity of leadership will enable the Department to best carry out its mission – Deputy Secretary Su’s service as Deputy Secretary ensures that she has a deep understanding of the inner workings of the DOL, its resources, and operations.

Deputy Secretary Su has deep experience addressing the particular needs of low-wage workers. Given the Department’s finite resources, her ability to understand and address the unique vulnerabilities of workers in low-wage, high violation industries is especially important.

Deputy Secretary Su has also done pioneering work for the labor and human rights of immigrant workers. Her work on the case of trafficked garment workers in 1995 contributed to the creation of seminal federal immigration protections for human trafficking victims, and she has continued advocating for immigrant worker communities throughout her career.

Finally, Deputy Secretary Su’s experience in state government has also left her well-positioned to manage the relationship between the US DOL and their numerous state level counterparts. The Department of Labor needs close, effective collaboration with state and local government partners on enforcement, administration of workforce training and other programs, and more.

We strongly urge the HELP Committee to swiftly advance her nomination to a vote on the Senate floor. Please do not hesitate to contact Samantha Sanders, [ssanders@epi.org](mailto:ssanders@epi.org), or Judy Conti, [jconti@nelp.org](mailto:jconti@nelp.org), should you have any questions about this remarkably qualified candidate.

Sincerely,

**National Organizations**

A Better Balance

AFL-CIO

AFSCME

American Federation of Government Employees

Asian American Legal Defense and Education Fund (AALDEF)

**Economic  
Policy  
Institute**



Asian Pacific American Labor Alliance, AFL-CIO  
 Care in Action  
 Center for American Progress  
 Center for Economic and Policy Research  
 Center for Law and Social Policy (CLASP)  
 Center for WorkLife Law  
 Child Labor Coalition  
 Civic Ventures  
 Coalition of Immokalee Workers  
 Coalition on Human Needs  
 Communications Workers of America (CWA)  
 Economic Policy Institute  
 Economic Roundtable  
 Family Values @ Work  
 Farmworker Justice  
 Food Chain Workers Alliance  
 In the Public Interest  
 Jobs to Move America  
 Jobs With Justice  
 Justice in Motion  
 JustLeadershipUSA  
 MomsRising  
 National Black Worker Center  
 National Center for Law and Economic Justice  
 National Center for Women's Equity in Apprenticeship and Employment at Chicago Women in Trades  
 National Consumers League  
 National Council for Occupational Safety and Health  
 National Council of Jewish Women  
 National Domestic Workers Alliance  
 National Education Association  
 National Employment Lawyers Association  
 National Employment Law Project  
 National Partnership for Women & Families  
 National Sierra Club  
 National Workrights Institute  
 Our Revolution  
 Oxfam America  
 Public Justice  
 ROC United  
 Sciencecorps

# Economic Policy Institute



Service Employees International Union (SEIU)  
 Transport Workers Union of America  
 UnidosUS  
 United Steelworkers (USW)  
 Workplace Justice Lab at Rutgers University

## **Regional, State, and Local Organizations**

32BJ SEIU  
 Alabama Possible  
 Casa Latina  
 Center for Worker Justice of Eastern Iowa  
 Chicago Jobs Council  
 Cincinnati Interfaith Workers Center  
 Coalition for Humane Immigrant Rights (CHIRLA)  
 Comunidades Sin Fronteras CSF-CT INC  
 Conservation Alabama  
 Dominican Development Center  
 Equal Justice Center  
 Every Texan  
 Food Bank of Northern Nevada  
 Freedom BLOC  
 Hospitality Training Academy (HTA)  
 Justice at Work  
 Justice at Work Pennsylvania  
 Kalmanovitz Initiative for Labor & the Working Poor, Georgetown University  
 Kentucky Equal Justice Center  
 Keystone Research Center  
 KWH Law Center for Social Justice and Change  
 Los Angeles Alliance for a New Economy (LAANE)  
 Maine AFL-CIO  
 Milwaukee Area Service & Hospitality Workers Organization  
 Mon Valley Unemployed Committee  
 Montana Chapter, National Organization for Women  
 New Jersey Association on Correction  
 New Jersey Policy Perspective  
 North Carolina Justice Center  
 Northwest Workers' Justice Project  
 Philadelphia Unemployment Project  
 PowHer New York  
 Progressive Leadership Alliance of Nevada  
 Public Justice Center

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Sugar Law Center for Economic and Social Justice  
UC Berkeley Labor Center  
Unidad Latina en Accion CT  
Warehouse Worker Resource Center  
West Virginia Center on Budget and Policy  
Women Employed  
Women Working Together USA  
Women's Law Project  
Workers Defense Action Fund  
Workplace Justice Project at Loyola Law Clinic

February, 2023

To President Joseph R. Biden, Jr.

Via email: Office of Presidential Personnel

We were federal prosecutors in the case of *US v. Manasurangkum et al.* involving Thai nationals who had trafficked dozens of individuals to the United States. We worked in the United States Attorney's Office for the Central District of California and the United States Department of Justice, Civil Rights Division during the case, respectively.

We had the great privilege of working closely with Julie Su, who represented the victims and material witnesses in that case. Julie's many impressive and tireless efforts on behalf of her clients are too numerous to recount in a letter such as this. Suffice it to say that she became a model not only for survivor advocacy but for how collaboration between federal prosecutors, victim advocates, and the brave victim-witnesses themselves could occur. This case was challenging from the start both because of the sheer number of individuals involved and the high profile and groundbreaking nature of the trafficking charges. This case, as many have said, brought modern-day slave labor to the forefront, as any present-day visitor to the Smithsonian can see. At the time, we all knew the stakes were extremely high for the victims and also for the many other workers suffering or potentially exposed to this type of horrific exploitation.

Julie was a staunch advocate for the victims at every turn. She pushed us, collaborated with us, challenged us, held us accountable, and in the end, made both us and the system better. While she advocated for the workers, she knew that her role – as their attorney for civil matters and immigration – depended on effective collaboration with others. She worked with us and with the community as a whole to explain the criminal case, to care for and to prepare the witnesses.

Julie was available at all hours of the day and night; we knew we could always contact her as she lived and breathed the work she was doing. She was everything from a sophisticated legal advocate, to a trusted counsel, to a carpooler and scheduler for her clients. As just one example of her attention to detail and deep compassion, she asked that we allow the workers to see the courtroom where they would have to testify before the court date, and she helped us not only to give the formal explanation to them, but insisted on actually walking them through what would happen and where everyone would be sitting so they would be unafraid.

With two decades of hindsight, we remain deeply proud of the work we did in this case, and it simply would not have been possible without Julie Su. She instinctively understands and cares about all workers, including immigrant non-English speaking workers who have been through the worst. And we can tell you first-hand that Julie Su also knows how to advocate tirelessly for them. We know that Julie Su would make an excellent Secretary of Labor.

/s/

Tom Warren  
Former Assistant United States Attorney Los Angeles

/s/

Luis C.deBaca  
Former Involuntary Servitude/Slavery Coordinator, Civil Rights Division, U.S. Dept. of Justice  
Former Ambassador at Large to Monitor & Combat Trafficking in Persons, U.S. Dept. of State



March 9, 2023

The Honorable Bernie Sanders  
Chair  
Committee on Health, Education,  
Labor & Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education,  
Labor & Pensions  
United States Senate  
Washington, D.C. 20510

**Re: Support of the Nomination of Julie Su to United States Secretary of Labor**

Dear Chairman Sanders and Ranking Member Cassidy:

I write to urge you to support the confirmation of Deputy Secretary of Labor Julie Su as U.S. Secretary of Labor. Su will do a superb job for the nation in that role.

Here at Futures Without Violence, we have had the pleasure of working with Su for many years, first in her role as Secretary of the California Labor and Workforce Development Agency and more recently at the U.S. Department of Labor. We know her to be a deeply principled, exemplary public servant, an inspirational, highly effective leader, and a trailblazer skilled in building consensus and getting things done. She is the kind of leader the country needs.

Su has long been a champion for working people and for the most marginalized among us. Her rock-solid credentials were honed when, as a young lawyer in the 1990s, she fought to protect dozens of Thai garment workers who had been horribly mistreated and enslaved in a sweatshop in El Monte. That work had a lasting impact, improving conditions for many low-income garment industry workers. In the decades since, Su has continued working tirelessly to protect the rights of domestic, immigrant, LGBTQIA+ and low-wage workers and all those who face harassment and violence on the job.

The daughter of Asian immigrants, Julie Su is a fearless advocate for fair pay and benefits, strong anti-discrimination measures, safe workplaces, and an economy that works for us all. Throughout her impressive career, she has been a proud champion for marginalized workers and to secure workplace protections and rights. She understands that safe communities are strong communities in which hardworking families have basic economic security. In all her work, she has centered the wellbeing of women, immigrant and minority workers, and working families.

Research tells us that three in four survivors of domestic violence remain in abusive relationships due to financial insecurity. Conversely, financial stability helps prevent child abuse, because when families thrive, so do children. The ongoing economic fallout from COVID-19 and the shadow pandemic of violence and abuse it created makes centering economic justice and safety imperative right now. At FUTURES, we know progress depends on safe and supportive workplaces that are free from harassment and discrimination; well-paid, secure jobs that create pathways to upward mobility; and social supports including affordable child care and health coverage, paid family and medical leave, and paid safe time.

Julie Su understands all that as well and has spent her career advocating for just that kind of workplace for all of us.

She is truly a transformative figure. If confirmed, Su will take over the U.S. Department of Labor at a time when we are still trying to recover from the pandemic, our workforce is in transition, and we are facing labor shortages and horrifying revelations about companies exploiting migrant children. At this juncture, she is the right choice to lead this critically important Department.

We urge the HELP Committee to offer unanimous support for Su's nomination, and ask you to encourage your Senate colleagues to confirm her. Working people will be well served, our economy stronger, and our country more successful with Julie Su as U.S. Secretary of Labor.

If you have questions, please contact our Director of Public Policy and Advocacy, Kiersten Stewart, at (202) 595-7383 or [kstewart@futureswithoutviolence.org](mailto:kstewart@futureswithoutviolence.org). Thank you for your consideration.

Sincerely,  
Esta Soler,  
Founder and President  
Futures Without Violence

*International Brotherhood of*  
**BOILERMAKERS • IRON SHIP BUILDERS**

753 State Avenue

**NEWTON B. JONES**  
INTERNATIONAL PRESIDENT  
SUITE 570  
913-371-2640  
FAX: 913-281-8101



**BLACKSMITHS • FORGERS & HELPERS**

Kansas City, Kansas 66101-2511

**WILLIAM T. CREEDEN**  
INTERNATIONAL SECRETARY-TREASURER  
SUITE 565  
913-371-2640  
FAX: 913-281-8102

April 18, 2023

The Honorable Bernie Sanders  
Chairman  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the members of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, I write to express our support for the nomination of Julie Su for Secretary of Labor.

Currently serving as Deputy Secretary at the Department of Labor, Ms. Su is uniquely qualified to succeed Secretary Marty Walsh in overseeing an agency of vital importance to working men and women. As you are aware, the Senate confirmed Su to serve in her current role by a vote of 50-47 in 2021, and we urge a swift confirmation for Ms. Su in order ensure a smooth transition at the Department of Labor.

Throughout her career, including serving as California's labor commissioner, Ms. Su has demonstrated her unwavering commitment to fight for the basic rights of every worker, including the right to organize. Ms. Su knows all too well that labor unions are key to rebuilding America's middle class.

Ms. Su is the right choice for Secretary of Labor, and I strongly recommend a vote in favor of her nomination.

Sincerely,

Newton B. Jones  
International President

cc: William T. Creeden, International Secretary-Treasurer  
U.S. International Vice Presidents  
Cecile M. Conroy, Director, Government Affairs



# FOREMEN'S UNION

180 E. Ocean Blvd., Suite 1020, Long Beach, California 90802  
(310) 832-1109 FAX (310) 832-2142  
[www.ilwulocal94.org](http://www.ilwulocal94.org)

*Sent via Electronic Mail*

March 16, 2023

Senator Bernie Sanders  
Chair  
United States Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

Senator Bill Cassidy, M.D.  
Ranking Member  
United States Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

**Re: Letter of Support- PN388 Nomination of Julie A. Su as Secretary of the Department of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

We write on behalf of Foremen's Union Local 94, International Longshore and Warehouse Union ("ILWU") to express our enthusiastic support of the Nomination of Julie A. Su as Secretary of the Department of Labor.

Foremen's Union Local 94 represents the Foremen and Walking Bosses employed to supervise the longshore workers at the Ports of Los Angeles, Long Beach, San Diego, and Hueneme. As such, we have seen first-hand Acting Secretary Su's commitment to championing workers' rights during her time as California Labor Commissioner, Secretary of the California Labor and Workforce Development Agency, Deputy Secretary of Labor, and now Acting Secretary of Labor.

"The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."<sup>1</sup> Local 94 is confident that Julie A. Su is the best choice to lead a Department with such a statutory responsibility. She has dedicated her professional career to workers' rights, the cornerstone of the Department's statutory mission. She is also in the unique position of having served as the de facto Chief Operating Officer for the Department of Labor, and now the Acting Secretary, allowing her to begin the important work of the Department immediately with minimal learning curve.

---

<sup>1</sup> 29 U.S.C. § 551





# FOREMEN'S UNION

180 E. Ocean Blvd., Suite 1020, Long Beach, California 90802  
 (310) 832-1109 FAX (310) 832-2142  
[www.ilwulocal94.org](http://www.ilwulocal94.org)

For these reasons and more, Foremen's Union Local 94 respectfully requests that the Nomination of Julie A. Su as Secretary of the Department of Labor be confirmed with bipartisan support.

Thank you for the opportunity to provide our support of the Nomination of Julie A. Su as Secretary of the Department of Labor. If you have any questions or would like any additional information, please feel free to contact us at [miranda@ilwu94.org](mailto:miranda@ilwu94.org); [martinez@ilwu94.org](mailto:martinez@ilwu94.org); [trudeau@ilwu94.org](mailto:trudeau@ilwu94.org).

Sincerely,

Daniel G. Miranda  
 President  
 Foremen's Union Local 94

Duane E. Martinez  
 Vice President  
 Foremen's Union Local 94

Mike Trudeau  
 Secretary-Treasurer  
 Foremen's Union Local 94

cc: President Joseph Robinette Biden Jr., President of the United States  
 Sen. Charles E. Schumer, Democratic Leader  
 Sen. Mitch McConnell, Republican Leader  
 Sen. Patty Murray, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Robert P. Casey, Jr., Senate Committee on Health, Education, Labor and Pensions  
 Sen. Tammy Baldwin, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Christopher Murphy, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Tim Kaine, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Maggie Hassan, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Tina Smith, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Ben Ray Lujan, Senate Committee on Health, Education, Labor and Pensions  
 Sen. John Hickenlooper, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Ed Markey, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Rand Paul, M.D., Senate Committee on Health, Education, Labor and Pensions  
 Sen. Susan Collins, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Lisa Murkowski, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Mike Braun, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Roger Marshall, M.D., Senate Committee on Health, Education, Labor and Pensions  
 Sen. Mitt Romney, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Tommy Tuberville, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Markwayne Mullin, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Ted Budd, Senate Committee on Health, Education, Labor and Pensions  
 Sen. Dianne Feinstein, United States Senator from California  
 Sen. Alex Padilla, United States Senator from California  
 Rep. Judy Chu, PhD, Chair, Congressional Asian Pacific American Caucus (CAPAC)



INTERNATIONAL  
LONGSHORE &  
WAREHOUSE UNION



1188 FRANKLIN STREET, 4<sup>th</sup> FLOOR  
SAN FRANCISCO  
CALIFORNIA 94109  
(415) 775-0533  
(415) 775-1302 FAX  
[www.ILWU.org](http://www.ILWU.org)

April 10, 2023

The Honorable Bernie Sanders  
Chairman  
Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

Re: Nomination of Julie Su for Labor Secretary

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the International Longshore and Warehouse Union (ILWU) and its 45,000 members, I write to support President Joe Biden's nomination of Julie Su to be the next Secretary of the United States Department of Labor.

The ILWU represents those men and women working at America's ports, ferries, tugboats, and warehouses on the West Coast, Hawaii and Alaska. These "frontline" workers have spent the last three years setting records unloading cargo at our West Coast ports, helping to keep the American supply chain and national economy functioning in the face of an unprecedented global pandemic.

As our economy continues to recover and grow, protecting and promoting a skilled American workforce is more critical than ever to enabling the United States' capacity to compete globally. That means respecting American workers long established right to collectively bargain and investing in job training and infrastructure that allows us to bring back American jobs outsourced to foreign countries.

Julie Su has proven she is a leader capable of bringing workers and employers together to resolve differences and to train and recruit America's future skilled workers.

As you know, Deputy Secretary Su previously served as Secretary of California's Labor & Workforce Development Agency. The ILWU and our industry partners worked closely with Secretary Su on critical issues related to workplace safety, job security and promoting job growth at our ports. It is based on our direct experience that we wholeheartedly urge you to confirm her as labor secretary.

As Deputy Secretary of Labor, she has met regularly with both the ILWU and our employers as we returned to the bargaining table for the first time in over eight years. She is uniquely positioned to continue to support good faith bargaining by the parties, and to do so with skill and diplomacy that is respected by all.

Her career is studded with impressive achievements, awards and an unfailing commitment to the dignity of work – a concept I know your both support on a bipartisan basis. Her appointment would also bring a welcomed additional diversity that would honor the contribution Asian and Pacific Island Americans have made to our Country.

The ILWU believes Julie Su is an outstanding nominee for U.S. Secretary of Labor and a true leader in shaping the future of work in the 21<sup>st</sup> Century.

In solidarity,



William A. Adams  
International President  
International Longshore & Warehouse Union



Office of  
James A. Williams, Jr.  
General President

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### ONE AGENDA

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## INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO

April 18, 2023

The Honorable Bernie Sanders  
Chair, Senate Committee on Health, Education, Labor and Pensions  
428 Dirken Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy, M.D.  
Ranking Member, Senate Committee on Health, Education, Labor and  
Pensions  
428 Dirken Senate Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the members of the International Union of Painters and Allied Trades, I am writing today to urge your support of the confirmation of Julie Su as United States Department of Labor Secretary. Throughout her career, she has shown willingness to adapt and lead and has played a significant role in safeguarding the rights of workers and upholding labor law.

Before her elevation to Deputy Secretary of Labor, Ms. Su served as Secretary for the California Labor and Workforce Development Agency, the largest state labor department in the United States, and as the California Labor Commissioner. She will bring a near unmatched depth of experience to the role of Department of Labor (DOL) Secretary. In her two years at the DOL, Deputy Su has more than demonstrated her readiness for the job.

Working alongside former Secretary Walsh, Ms. Su has been an integral part of the team bringing unprecedented job growth and near historic unemployment over the last two years. Her leadership at the DOL in working with other agencies - including the Department of Energy and the Department of Commerce - has proven effective in tackling issues important to both workers and employers.

Throughout her career, Ms. Su has focused on ensuring that laws are implemented in a way to protect workers, guide employers, and support communities. By launching innovative public education campaigns and establishing positive relations with employers and industry associations, she has helped transform the enforcement of labor laws.

Julie Su will provide the needed consistency and steady hand at the Department of Labor to keep our economy moving forward. She has our strong and unreserved support. I look forward to a swift and resounding confirmation of Ms. Su to be the next Secretary of Labor.

Sincerely,

James A. Williams, Jr.  
General President

**International Association of  
Bridge, Structural, Ornamental and Reinforcing Iron Workers**

**ERIC M. DEAN**  
GENERAL PRESIDENT

**RONALD J. PIKSA**  
GENERAL SECRETARY

**KENNETH "BILL" DEAN**  
GENERAL TREASURER



Affiliated with AFL-CIO

LOWER LOBBY, ROOM 1  
1750 NEW YORK AVE. N.W.  
WASHINGTON, D.C. 20006  
(202) 383-4800

March 21, 2023

The Honorable Bernie Sanders  
Chairman  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the 125,000 members of the International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers, I write to express our support for the nomination of Julie Su for Secretary of Labor.

Su is a champion for workers and has been a dependable Deputy Secretary of Labor since July 2021. She has been an active and skilled partner with Secretary Walsh in implementing President Biden's priorities and has contributed to the Department of Labor's historic Labor partnerships. She has the necessary leadership qualities and skills to help the Department continue building a stronger middle class and more inclusive economy.

Before working with the U.S. Department of Labor, Julie Su served as Secretary for the California Labor and Workforce Development Agency and as State Labor Commissioner. Throughout her career, she has remained true to working families. Most recently, Su has worked alongside Secretary Marty Walsh in advancing a strong, resilient, inclusive economy in line with Biden Administration priorities for working people of all backgrounds. Su is a proven leader in advocating for working people and civil rights.

We hope you see fit to keep Julie Su at the Department of Labor as the Secretary and the IW looks forward to working with a Secretary who continues to be on the side of working families.

Sincerely,

A handwritten signature in blue ink that reads "Eric M. Dean".

Eric Dean  
GENERAL PRESIDENT



Ed Wytkind, Chair  
President, EW Strategies LLC

Dr. Beverly Scott, Vice-Chair  
CEO, Beverly Scott & Associates

Robert Puentes, Sec-Treas.  
CEO, Eno Center for Transportation

Helen Chin  
President, Communities First Fund

John A. Costa  
Int'l. President, Amalgamated Transit Union

Scott Douglas  
Exec. Director, Greater Birmingham Ministries

Cecilia Estolano  
CEO and Founder, Estolano Advisors

Ana Garcia-Ashley  
Exec. Director, Garmalei Network

Jacky Grimshaw  
Vice President of Government Affairs,  
Center for Neighborhood Technology

Carl Kennebrew  
President, IUE-CWA

Ken Lang  
Organizing Director, United Auto Workers

Robert Martinez Jr.  
Int'l. President, International Association of  
Machinists and Aerospace Workers

Greg Regan  
President, Transportation Trades Department,  
AFL-CIO

John Samuelson  
Int'l. President, Transport Workers Union of  
America

Joseph Sellers  
General President, Intl. Association of Sheet  
Metal, Air, Rail and Transportation Workers

Elizabeth (Liz) Shuler  
President, AFL-CIO

Maria Somma  
Organizing Director, United Steelworkers

Tanya Wallace-Gobern  
Exec. Director, National Black Worker Center

Xinge Wang  
Deputy Director, Transportation Learning Center

Sherilyn Wright  
Executive Assistant to the Intl. Pres.,  
International Brotherhood of Electrical Workers

**CO-EXECUTIVE DIRECTOR**  
Madeline Janis, Esq.

**CO-EXECUTIVE DIRECTOR**  
Erica Iheme

April 13, 2023

The Honorable Bernard Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Julie Su to serve as Secretary of the U.S.  
Department of Labor**

Dear Chairman Sanders, Ranking Member Cassidy, and Members of  
the Committee,

Jobs to Move America (JMA) is a strategic policy center that works to  
advance a fair and prosperous economy with good jobs and healthier  
communities for all, and we write to you today to urge the Senate HELP  
Committee to advance, without delay, the confirmation of Deputy  
Secretary of Labor Julie Su to serve as Secretary of the U.S.  
Department of Labor. JMA has offices in Los Angeles, Chicago, New  
York, and Alabama, and we have worked with Deputy Secretary Su  
when she was California Secretary of Labor and in her current capacity  
as Deputy Secretary.

The Department of Labor's (DOL) basic mission is "to foster, promote,  
and develop the welfare of the wage earners, job seekers, and retirees of  
the United States; improve working conditions; advance opportunities  
for profitable employment; and assure work-related benefits and  
rights." Few people are as uniquely well-suited to lead the DOL in  
executing this mission as Deputy Secretary Su. She has devoted her life  
to supporting high road employers, holding law-violating employers  
accountable, and doing pioneering work to protect the most vulnerable  
of workers.

Over the past two years, we have witnessed Deputy Secretary Su prove  
herself to be an indispensable partner to Secretary Marty Walsh. Her  
recent experience and proven track record as a leader at the DOL will  
enable a smooth leadership transition for the agency and a continuation  
of the agenda they both charted, one that will promote and support high  
road employers that have committed to building a better future for all as  
well as better protecting workers from illegal practices.

Deputy Secretary Su has a long history of bridging the need for strong  
workforce development and worker protections with buy-in from the  
business community. As we know from our work with her in California,



Deputy Secretary Su is well respected by many leaders in private business because she is someone who understands the importance of high-road partnerships between management and labor. We have negotiated multiple Community-Benefits Agreements (CBAs) in the transportation manufacturing industry around the country that put in place innovative pre-apprenticeship and apprenticeship programs to help marginalized workers gain access to jobs in a growing industry. As Deputy Secretary, Su has been instrumental in holding CBAs up as a win-win for communities and businesses, and a model of labor-management cooperation that should be further deployed.

As the Secretary of the California Labor and Workforce Development Agency, Deputy Secretary Su worked closely with both unions and employers to grow high-road training partnerships that would provide an on-ramp for workers to good, career jobs, benefit employers who were in need of a highly skilled, climate-jobs workforce, and make community stakeholders true partners in identifying innovative ways to access these training and employment opportunities. Under her leadership, this model for industry-community workforce partnerships has ballooned as a best practice and now supports California businesses with an equal level of funding to the State's own Workforce Innovation and Opportunity Act formula allocation. Strategies like this have helped federal resources go above and beyond in positioning California workers to be leaders in the emerging climate careers that Congress and the Biden-Harris administration are investing in.

This is a critical time for the DOL to continue building a strong, resilient, inclusive economy with worker well-being at its center. We have been working closely with the DOL on improving access to good-paying jobs through workforce development programs, expanding pre-apprenticeship and apprenticeship opportunities, and addressing workforce needs in sectors impacted by recent federal investments in the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), and the CHIPS and Science Act (CHIPS Act). We know that the Deputy Secretary has been thinking deeply about how to ensure that America's workforce pipeline is built out in the new industries that are being stimulated through these laws, and that we are centering equity in the process.

Continuity of leadership will enable the DOL to best carry out its mission – Deputy Secretary Su's experience over the last two years ensures that she has a deep understanding of the inner workings of the Department, its resources, and operations. Additionally, Deputy Secretary Su's deep experience addressing the particular needs of low-wage workers makes her exceptionally and uniquely qualified to lead the DOL at this moment in time. Given the Department's finite

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resources, her ability to understand and address the vulnerabilities of workers in low-wage, high-violation industries is especially important.

Deputy Secretary Su has also done pioneering work for the labor and human rights of immigrant workers. Her work on the case of trafficked garment workers in 1995 contributed to the creation of seminal federal immigration protections for human trafficking victims, and she has continued advocating for immigrant worker communities throughout her career.

Finally, Deputy Secretary Su's experience in state government has also left her well-positioned to manage the relationship between the DOL and their numerous state level counterparts, which will be critical as states and localities continue to receive and implement funding from the IIJA, the IRA, and the CHIPS Act. JMA is an organization that works on the federal and local level, so we know that the DOL needs close, effective collaboration with state and local government partners on enforcement and administration of workforce training and good jobs creation.

We strongly urge the Senate HELP Committee to swiftly advance her nomination to a vote on the Senate floor. Please do not hesitate to contact Madeline Janis ([mjanis@jobstomoveamerica.org](mailto:mjanis@jobstomoveamerica.org)), Miranda Nelson ([mnelson@jobstomoveamerica.org](mailto:mnelson@jobstomoveamerica.org)), or Michael Lawliss ([mlawliss@jobstomoveamerica.org](mailto:mlawliss@jobstomoveamerica.org)) should you have any questions about this remarkably qualified candidate.

Sincerely,

Jobs to Move America

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March 9, 2023

The Honorable Charles E. Schumer  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Republican Leader  
U.S. Senate  
Washington, DC 20510

**Support the Nomination of Deputy Secretary Julie Su for Secretary of the U.S. Department of Labor**

Dear Leader Schumer and Leader McConnell:

On behalf of the Los Angeles Area Chamber of Commerce (Chamber) representing the vibrant business community in the Los Angeles region, I write to express our support of President Biden's nomination of Deputy Secretary Julie Su to lead the Department of Labor.

Deputy Secretary Su has worked with the Chamber numerous times to bring a reasonable, balanced voice to labor issues. In her current role, Deputy Secretary Su functions as an executive of the Department of Labor overseeing its workforce, managing its budget and executing the priorities of the secretary of labor. She is well prepared to lead the Department as its secretary. Further, as the secretary for the California Labor and Workforce Development Agency, Deputy Secretary Su enforced workplace laws, ensured occupational health and safety, connected Californians to quality jobs and career pathways – which is a major priority of the Chamber.

I am confident her experience working to incorporate the voice of business into labor matters will serve her, and the administration, well as the Secretary of Labor. I encourage you to support the confirmation of Julie Su as our next Secretary of the U.S. Department of Labor. If you have any questions please reach out to me.

Sincerely,

Maria S. Salinas  
President & CEO

- CC: Senator Feinstein
- Senator Padilla
- Representative Robert Garcia
- Representative Mike Garcia
- Representative Brownley
- Representative Chu
- Representative Schiff
- Representative Cardenas
- Representative Sherman
- Representative Napolitano
- Representative Lieu



Representative Gomez  
Representative Torres  
Representative Kamlager  
Representative Sanchez  
Representative Obermolte  
Representative Steel  
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April 19, 2023

The Honorable Bernie Sanders  
Chair  
Senate Committee on Health, Education, Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education, Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Support for the Nomination of Julie Su to serve as Secretary of the United States Department of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), I urge you to support the nomination of Julie Su to serve as Secretary of the United States Department of Labor. The Lawyers' Committee is a nonprofit, nonpartisan organization formed in 1963 that uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have voice, opportunity, and power to make the promises of our democracy real. For sixty years, the Lawyers' Committee has been at the forefront of many of the most significant cases to advance racial equality and secure equal justice. Our mission and history make our organization uniquely qualified to comment on this nomination.

Since its inception in 1913, the Department of Labor has played a vital role in developing and promoting the welfare of all wage earners and retirees throughout the United States by creating profitable employment opportunities and fostering safe working conditions. The Secretary of the Department of Labor fulfills a role that is of the utmost importance, as we currently face a pivotal moment in our nation's history and understanding of racial justice. The COVID-19 pandemic has had a massive impact on the American workforce and economy, most detrimentally for Black people and other people of color. It led to massive job layoffs with 20 million people losing employment within the first month, an increase in the number of workers who were ill and disabled, and a shift into a predominantly remote-based workforce for many professions. The Department of Labor played an essential role in recovering the labor market from the pandemic crisis. The U.S. economy has added a record 12.4 million jobs since President Biden took office and the unemployment rate has been below 4 percent for more than a

year. The unemployment rate for Black workers is at a historic low of 5 percent. However, many workers—particularly essential workers, such as health care, grocery store, and agricultural workers—continue to face hardships in its aftermath. America needs a Labor Secretary who brings a depth of experience in leading our nation through the challenges of a constantly evolving economy while protecting the rights of workers, especially low-paid workers, who are disproportionately people of color. There is no one better prepared and more qualified than Julie Su.

Ms. Su is a champion for workers' rights and civil rights, and has devoted her career to ensuring equal justice for all. After graduating from Stanford University with a Bachelor of Arts degree and Harvard Law School, Ms. Su began her legal career as a human rights lawyer working for the organization now known as Asian Americans Advancing Justice Southern California, the nation's largest legal and civil rights organization for Asian Americans and Pacific Islanders. During her 17 years there, Ms. Su fought tirelessly for undocumented workers and workers subjected to human and civil rights abuses. In one prominent case, Ms. Su represented garment workers who had been enslaved at a factory in El Monte, California behind barbed wires and under armed guard. Ms. Su not only helped secure over four million dollars in restitution, but also helped obtain lawful immigration status for these workers. During this same time, Ms. Su co-founded Sweatshop Watch, a group consisting of labor, immigrant rights, and other organizations, working to eliminate sweatshop conditions through litigation and policy changes. Because of this work, Ms. Su was awarded a MacArthur Foundation Fellowship—known as a “genius grant”—in 2001.

Ms. Su served as the California Labor Commissioner from 2011 to 2018. In this role, she focused on economic justice by enforcing labor laws and also launched the “Wage Theft is a Crime” campaign. Her work was incredibly impactful, as her leadership led to more investigations and enforcement of wage theft laws. Through this initiative, Ms. Su identified more than \$185 million in unpaid wages legally owed to workers through prosecutions and civil lawsuits. In 2019, she became the Secretary of the California Labor and Workforce Development Agency. During her time as Labor Secretary, Ms. Su was responsible for coordinating workforce programs, administering workers' compensation, unemployment insurance, disability insurance, and paid family leave, and overseeing major departments including the Department of Industrial Relations and the Agricultural Labor Relations Board. Her work had a tangibly beneficial impact on the livelihoods of people of color.

Two years ago, Ms. Su was confirmed by the Senate to serve as the Deputy Secretary of Labor. In this role, she worked hand-in-hand with former Secretary Marty Walsh to advance a strong, resilient, and inclusive economy. Amongst several accomplishments as Deputy Secretary, Ms. Su improved access to quality jobs through her leadership in the Good Jobs Initiative, which aims to ensure that the new jobs being created across America by the Bipartisan Infrastructure Law, CHIPS Act, and Inflation Reduction Act are good jobs and widely available to workers across the country. Ms. Su currently serves as the Acting Secretary of Labor, where she has led an expansion of workforce training initiatives, including increased access to apprenticeships, and

investments in our nursing workforce. If confirmed, Ms. Su would bring diversity to President Biden's cabinet, as she would be the Biden Administration's first Asian American cabinet secretary and just the second Asian American Secretary of Labor in our nation's history.

Ms. Su shares our organization's dedication to ensuring that communities of color can fully access and engage in the economy and live dignified lives free from discrimination. Julie Su's inspiring record and her commitment to protecting the rights of all workers makes her preeminently qualified to serve as the Secretary of the United States Department of Labor.

Thank you for your consideration of our support of the nomination of Ms. Su to become Secretary of the United States Department of Labor. I urge the Senate to swiftly confirm Ms. Su and welcome the opportunity to discuss her nomination with your office further. If you have any questions or concerns, please contact Zha'Mari Hurley, Associate Policy Counsel, at [zhurley@lawyerscommittee.org](mailto:zhurley@lawyerscommittee.org).

Sincerely,



Damon T. Hewitt  
President & Executive Director  
Lawyers' Committee for Civil Rights Under Law

The Leadership Conference  
on Civil and Human Rights

1620 L Street, NW 202.466.3311 voice  
Suite 1100 202.466.3435 fax  
Washington, DC www.civilrights.org  
20036



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International Union, UAW  
Jacelyn Fryc  
National Partnership for  
Women & Families  
Jonathan Greenball  
Anti-Defamation League  
Mary Kay Henry  
Service Employees International Union  
Damon Hewitt  
Lawyers' Committee for  
Civil Rights Under Law  
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Japanese American Citizens League  
Virginia Kase Solerston  
League of Women Voters of the  
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Marc Metral  
National Union League  
Janet Mangata  
UndoUS  
Svenke Myrskog  
People For the American Way  
Janis Nelson  
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Educational Fund, Inc.  
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Human Rights Campaign  
Anthony Romero  
American Civil Liberties Union  
Liz Shaker  
AFL-CIO  
Fawn Sharp  
National Congress of American Indians  
Maria Town  
American Association of  
People with Disabilities  
Randa Wengertzen  
American Federation of Teachers  
John C. Yang  
Asian Americans Advancing Justice |  
AAJC  
**President and CEO**  
Mera Wiley

April 19, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education, Labor & Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member, Committee on Health, Education, Labor & Pensions  
United States Senate  
Washington, D.C. 20510

**Support the Confirmation of Julie Su to be U.S. Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, and the 125 undersigned organizations, we write to express our strong support for the confirmation of Julie Su to serve as the next secretary of the U.S. Department of Labor. Su, who was confirmed in 2021 as deputy secretary and who is currently serving as acting secretary of the department, is an exemplary leader whose career in public service, professional experience as a civil rights lawyer, and lived experience as an Asian American woman make her exceptionally qualified for the role. There is no one more prepared to move into this role and lead the department as it undertakes its critical mission to protect working people.

Su has demonstrated an unwavering commitment to ensuring that all working people are treated with dignity and are able to enjoy basic protections in the workplace, and her career has reflected a deep understanding of how equity, justice, and economic security are linked — especially for communities of color, women, immigrants, people with disabilities, and other groups who have borne the historic and ongoing burden of systemic discrimination. The inequalities in the labor market long experienced by these communities were exacerbated by the economic crisis sparked by the COVID-19 pandemic. The work of the Department of Labor is critical to supporting working people in the aftermath of that crisis and to addressing these historic inequities and building an inclusive economy that works for all.

Su possesses deep expertise in civil rights and workplace rights and is exceedingly qualified to serve as secretary of labor. As the deputy secretary of labor, Su worked side-by-side with former Secretary Marty Walsh to advance the vision of a strong, resilient, and inclusive economy with worker well-being at its center. Su has played a leading role in the development of President Biden's Good Jobs Initiative, which has helped to improve job



standards in government contracting and grant making and ensuring that the opportunities presented by once-in-a-generation infrastructure investments are broadly shared. Under Su's leadership as deputy secretary, the department has acted to raise wages and improve conditions for workers by raising the minimum wage for federal contractors, strengthening protections for tipped workers, and proposing that more workers be protected as employees under the Fair Labor Standards Act — actions that expand opportunity for all while advancing equity for groups disproportionately employed in those sectors. And Su has been essential to the department's efforts to support unions and workers' right to organize. Unions and union membership [lower inequality, raise wages for all workers, and reduce race and gender economic disparities](#).

As the labor secretary for the state of California, Su was responsible for thousands of employees and charged with protecting and improving the well-being of the country's largest civilian workforce. Su oversaw the state departments and boards that enforce labor laws and administer benefits, including workers' compensation, unemployment insurance, disability insurance, and paid family leave. Faced with the unprecedented challenges posed by the onset of the pandemic, she worked with business leaders, labor, community-based organizations, philanthropists, and the tech community in California to design a [High Road Recovery](#). She also worked to advance race and gender equity and close pay disparities, co-leading the [California Pay Equity Task Force](#) to help ensure robust implementation of the state's gender pay equity law. And while serving as California labor commissioner, Su significantly increased [enforcement of wage theft laws](#), helping low-wage workers make ends meet and ensuring fair and just workplaces for workers and employers alike.

Su has had an extensive career promoting human rights and protecting vulnerable people from exploitation and abuse. Before entering government service, she worked for 17 years as a civil rights lawyer. As litigation director at Asian Americans Advancing Justice Southern California (formerly known as Asian Pacific American Legal Center), Su led [landmark litigation](#) to protect the rights of immigrant workers who were victims of trafficking, receiving the prestigious [MacArthur Foundation "genius" grant](#) for her work. Deputy Secretary Su's nomination is also a critical step toward increasing Asian American representation in President Biden's Cabinet. If confirmed, Su would be the only Asian American Cabinet secretary in the administration. Su's lived experience as a woman of color and the daughter of immigrants has already brought important perspective to the Department of Labor's leadership, and her presence in the Cabinet would strengthen the administration writ large.

Julie Su is a tested and experienced leader who has been committed to implementing and strengthening workplace protections and improving economic opportunities for all. Under Su's leadership, the Department of Labor will continue to build a stronger, more resilient, and more inclusive economy. We urge you to work swiftly to advance this nomination and ensure that the department can deliver on its mission of promoting the welfare of working people, improving working conditions, advancing opportunities, and protecting and enforcing workplace rights.

If you have any questions, please contact Josh Boxerman, senior policy analyst at The Leadership Conference on Civil and Human Rights, at [boxerman@civilrights.org](mailto:boxerman@civilrights.org).



Sincerely,

The Leadership Conference on Civil and Human Rights  
 A Better Balance  
 AFSCME  
 American Association of University Women  
 American Baptist Home Mission Societies  
 American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)  
 American Federation of Teachers  
 American Humanist Association  
 American Postal Workers Union  
 Americans for Financial Reform  
 Asian Americans Advancing Justice - AAJC  
 Asian and Pacific Islander American Vote (APIAVote)  
 Asian Pacific American Labor Alliance, AFL-CIO  
 Association for People Supporting Employment First (APSE)  
 Association of Asian Pacific Community Health Organizations (AAPCHO)  
 Bayard Rustin Liberation Initiative  
 Care in Action  
 Center for Asian American Media  
 Center for Disability Rights  
 Center for Law and Social Policy (CLASP)  
 Center for Popular Democracy  
 Center for WorkLife Law  
 CenterLink: The Community of LGBT Centers  
 Civic Ventures  
 Clearinghouse on Women's Issues  
 Climate Hawks Vote  
 Coalition for Humane Immigrant Rights (CHIRLA)  
 Coalition of Labor Union Women  
 Coalition on Human Needs  
 Communications Workers of America (CWA)  
 Community Change Action  
 CPD Action  
 Daily Kos  
 Demand Progress  
 Demos  
 Disability Rights Advocates  
 Disciples Center for Public Witness (Disciples of Christ)  
 Economic Policy Institute  
 Economic Security Project Action  
 Empowering Pacific Islander Communities  
 Equal Justice Society



Equal Rights Advocates  
Equality Federation  
Family Values @ Work  
Feminist Majority Foundation  
Fight Corporate Monopolies  
Futures Without Violence  
GLAAD  
Hmong National Development, Inc.  
Human Rights Campaign  
ICNA Council for Social Justice (ICNA CSJ)  
Impact Fund  
IN4WS - Inter-religious Network for Worker Solidarity  
Institute for Local Self-Reliance  
Japanese American Citizens League  
Jewish Labor Committee  
Jobs With Justice  
Justice for Migrant Women  
Kalmanovitz Initiative for Labor & the Working Poor, Georgetown University  
Laotian American National Alliance  
Lawyers' Committee for Civil Rights Under Law  
League of Conservation Voters  
League of United Latin American Citizens  
Legal Aid at Work  
LIUNA  
Main Street Alliance  
MALDEF (Mexican American Legal Defense and Educational Fund)  
Matthew Shepard Foundation  
Mercy Housing  
Movement Advancement Project  
MPower Change Action Fund  
NARAL Pro-Choice America  
National Alliance for Partnerships in Equity  
National Asian American Pacific Islander Mental Health Association  
National Asian Pacific American Bar Association (NAPABA)  
National Asian Pacific American Women's Forum (NAPAWF)  
National Asian Pacific Center on Aging  
National Black Justice Coalition  
National CAPACD  
National Center for Law and Economic Justice  
National Center for Lesbian Rights  
National Coalition on Black Civic Participation (NCBCP)  
National Council of Asian Pacific Americans  
National Council of Jewish Women



National Crittenton  
National Disability Rights Network (NDRN)  
National Domestic Workers Alliance  
National Education Association  
National Employment Law Project  
National Employment Lawyers Association  
National Immigration Law Center  
National Japanese American Memorial Foundation (NJAMF)  
National Partnership for Women & Families  
National Queer Asian Pacific Islander Alliance (NQ)  
National Skills Coalition  
National Taskforce on Tradeswomen Issues  
National Urban League  
NCTE Action Fund  
NETWORK Lobby for Catholic Social Justice  
OCA-Asian Pacific American Advocates  
Our Revolution  
Paid Leave for All  
People For the American Way  
People's Parity Project  
PolicyLink  
Pride at Work  
Progressive Change Institute  
Public Citizen  
Public Justice  
Reconstructionist Rabbinical Association  
Revolving Door Project  
ROC United  
Safer Foundation  
Service Employees International Union (SEIU)  
Sierra Club  
Student Borrower Protection Center  
Take on Wall Street  
The Advocates for Human Rights  
The South Asian Public Health Association  
The Workers Circle  
UFCW OUTreach  
Unitarian Universalists for a Just Economic Community  
Unitarian Universalists for Social Justice  
USOW  
We Vote. We Win.  
X-Lab



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General President

ARMAND E. SABITONI  
General Secretary-Treasurer

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BRUCE LERNER  
General Counsel

HEADQUARTERS:  
905 16th Street, NW  
Washington, DC  
20006-1765  
202-737-8320  
Fax: 202-737-2754  
www.liuna.org



# LIUNA!

April 11, 2023

The Honorable Bernie Sanders  
Chairman  
Senate Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the 500,000 members of the Laborers' International Union of North America (LIUNA), I write to declare our support for President Biden's nomination of Julie Su as Secretary of the United States Department of Labor. Her expertise and decades of experience as an advocate for working families and civil rights is vital at this time of national crisis.

Su has been a longtime advocate for workers in her time in public service. As California's Labor Secretary, she has navigated the state's economy through the COVID pandemic. She served as the California Labor Commissioner from 2011 to 2018, during which she led the fight against wage theft and workplace abuses.

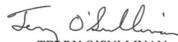
Su also has a strong background as a civil rights attorney. She served as the Litigation Director for Asian Americans Advancing Justice-Los Angeles, where she advocated on behalf of immigrant workers and their communities. Su's leadership will bring much-needed experience to address ongoing racial and economic inequity.

More recently, during her time as Deputy Secretary of the United States Department of Labor, she has worked to ensure fair wages for workers, to combat child labor, to promote workplace safety, and to promote equity in construction and other industries – all issues that LIUNA strongly supports.

This country needs strong leadership to strengthen our economy and tackle the challenges and inequities affecting working families. LIUNA urges the Senate to confirm Julie Su as Secretary of Labor.

With kind regards, I am

Sincerely yours,

  
TERRY O'SULLIVAN  
General President

bks

*Feel the Power*



The Honorable Bernard Sanders  
Chairman  
Committee on Health, Education, Labor and  
Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education, Labor and  
Pensions  
United States Senate  
Washington, D.C. 20510

April 17, 2023

**RE: Nomination of Julie Su to the U.S. Department of Labor Secretary**

Dear Chairman Sanders and Ranking Member Cassidy:

MomsRising urges you to support Julie Su's nomination to serve as Secretary of the Department of Labor.

MomsRising is an organization of more than [one million moms](#) across the country working to increase family economic security, fight discrimination, and build a nation where everyone can thrive. We stand firmly behind the nomination of Julie Su to be Secretary of the Department of Labor. Ms. Su is a proven leader committed to the task of building a stronger, more resilient, and more inclusive economy that will protect workers and businesses alike.

Ms. Su has a long record of advocating for policies that benefit working families, particularly the most vulnerable. In her role as the Secretary of the California Labor and Workforce Development Agency, Ms. Su administered the country's first statewide paid family and medical leave program. This experience is invaluable to understanding the need to support parents in taking time off for caregiving responsibilities as well as the positive long-term wage implications of paid leave. Ms. Su has also been a strong advocate for increasing the minimum wage, which is especially important for women and people of color who are disproportionately represented in low-wage jobs.

Women, people of color, the LGBTQ+ community, and people living with disabilities are more likely to be affected by workplace discrimination and harassment. As a civil rights attorney with Asian Americans Advancing Justice-Los Angeles, Ms. Su represented women workers across low-paid industries, challenging extreme and dehumanizing labor conditions. Further, as Deputy Secretary of Labor, Ms. Su helped avert a national rail shutdown, improved access to good jobs free from discrimination, and ensured that critical manufacturing and healthcare jobs are good

paying, stable, and accessible for all. Working directly with impacted workers provides Ms. Su with the tools and insight needed to understand the threats facing our nation's workforce.

Ms. Su's commitment to advance gender equity and support working families makes her uniquely qualified to lead the Department of Labor. Her leadership will be critical in advancing the Biden administration's priorities on issues such as expanding access to affordable child care, promoting equal pay for women, preventing hiring discrimination, and strengthening workplace protections for caregivers.

Moms across the nation have organized to support the policies that Deputy Secretary Su has spent her career fighting for. We strongly urge you to confirm Julie Su as the next Secretary of Labor. Her leadership and expertise will be invaluable in advancing policies that support working families and promote gender equity.

Sincerely,

Kristen Rowe-Finkbeiner  
Executive Director/CEO  
MomsRising



April 15, 2023

Senator Bernie Sanders  
Chair  
Senate Committee on Health, Education,  
Labor and Pensions  
United States Senate  
Washington, D.C. 20510

Senator Bill Cassidy, M.D.  
Ranking Member  
Senate Committee on Health, Education,  
Labor and Pensions  
United States Senate  
Washington, D.C. 20510

Re: **Letter of Support for the Selection of Julie Ann Su to Serve as the U.S. Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

The National Asian Pacific American Bar Association (NAPABA) writes in strong support for Julie Ann Su to be the next Secretary of Labor. Ms. Su is currently serving as the Acting Secretary of Labor.

NAPABA is the national association of Asian Pacific American attorneys, judges, law professors, and law students. NAPABA represents the interests of over 60,000 attorneys and over 90 national, state, and local bar associations. Its members include solo practitioners, large firm lawyers, corporate counsel, legal services and non-profit attorneys, and lawyers serving at all levels of government. NAPABA engages in legislative and policy advocacy, promotes Asian Pacific American political leadership and political appointments, and builds coalitions within the legal profession and the community at large. NAPABA also serves as a resource for government agencies, members of Congress, and public service organizations about Asian Pacific Americans in the legal profession, civil rights, and diversity in the courts.

Acting Secretary Su is the most qualified candidate for U.S. Secretary of Labor and is the best choice to advance the policies of the Biden Administration. She has consistently demonstrated strong fidelity to the law and Congressional limits. Her previous work as a labor lawyer allowed her to oversee the enforcement of the law by an agency and advise the legislature when asked for assistance.

In 2014, NAPABA honored Acting Secretary Su with its prestigious Daniel K. Inouye Trailblazer Award for advocating for the most vulnerable, poor, and disenfranchised workers, including her efforts to hold garment manufacturers accountable for exploiting slave labor. The Daniel K. Inouye Trailblazer Award recognizes the outstanding achievements, commitment, and leadership of lawyers who have paved the way for the advancement of other Asian Pacific American attorneys.

Prior to her confirmation as Deputy Secretary, Acting Secretary Su was Secretary of the California Labor and Workforce Development Agency—the country’s largest state labor department and the fifth largest economy in the world. She had previously served as California Labor Commissioner, Litigation Director at Asian Americans Advancing Justice | Los Angeles, and has taught at UCLA Law School and Northeastern Law School. Acting Secretary Su received the 2019 American Bar Association’s Margaret Brent Award and was a recipient of the 2001 MacArthur Foundation’s “Genius” Grant. She is a graduate of Harvard Law School and Stanford University.

Acting Secretary Su’s extensive experience and commitment to the law and policy make her an exemplary candidate for the U.S. Secretary of Labor. The National Asian Pacific American Bar Association proudly supports her nomination.

Sincerely,

A handwritten signature in black ink that reads "Priya Purandare". The signature is written in a cursive, flowing style.

Priya Purandare  
Executive Director



April 19, 2023

The Honorable Bernie Sanders  
Chair Senate Committee on Health, Education, Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member Senate Committee on Health, Education, Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

RE: Support for the Confirmation of Julie Su as  
Secretary of U.S. Department of Labor

Dear Chair Sanders and Ranking Member Cassidy:

On behalf the National Coalition for Asian Pacific American Community  
Development (National CAPACD), I write to express our strong support for the  
confirmation of Julie Su to serve as the next Secretary of the U.S. Department of  
Labor.

Su represents the best of America. The daughter of Chinese immigrants who built a  
small business, and raised a daughter who became a leading worker's advocate and  
civil rights leader. Ms. Su is not only an outstanding role model for the Asian  
American Native Hawaiian and Pacific Islander community and women throughout  
the country, but a nationally recognized expert on workers' rights and civil rights  
who has dedicated her distinguished legal career to advancing justice on behalf of  
poor and disenfranchised communities. In her 17 years as a civil rights lawyer, Su  
brought landmark lawsuits in coalitions representing African American, Latino,  
Asian American, and LGBTQ communities.

1628 16TH STREET NW, 4TH FLOOR | WASHINGTON, DC 20009 | (202) 223-2442

1825 SAN PABLO AVENUE, #2 | OAKLAND, CA 94612 | (510) 452-4800

NATIONALCAPACD.ORG

In her current role, Ms. Su has been an indispensable leader within DOL, working across government for a more inclusive economy. This has included working closely with Secretary Walsh to avert a nationwide railroad strike, improving labor standards enforcement to protect the most vulnerable workers, and modernizing workforce development programs. Ms. Su has not only built strong working relationships among federal government leaders to accomplish this progress, but has also built trust with labor unions, worker organizations, and business groups across the country.

Julie Su is the most qualified candidate to be Secretary of Labor and the best choice to advance President Biden's agenda for an inclusive economy. We urge the Senate to swiftly confirm Julie Su as U.S. Secretary of Labor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Seema Agnani', written in a cursive style.

Seema Agnani  
Executive Director



April 20, 2023

The Honorable Bernie Sanders  
Chairman  
Committee on Health, Education,  
Pensions  
U.S. Senate  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Bill Cassidy, M.D.  
Ranking Member  
Committee on Health, Education, Labor and  
Pensions  
U.S. Senate  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Sanders, Ranking Member Cassidy, and Members of the Committee:

On behalf of the National Domestic Workers Alliance (NDWA), we write to express our strong support for Julie Su, the current Acting Secretary of Labor, to be confirmed as the next U.S. Secretary of Labor.

The National Domestic Workers Alliance is the nation's leading voice on behalf of the 2.2 million domestic workers. Domestic workers are the nannies that take care of our children, the house cleaners that bring order to our home, and the care workers that ensure that our loved ones can live with dignity and independently. These essential workers are majority women, and mostly immigrants and women of color. NDWA has 74 affiliate organizations and local chapters.

Few people are as eminently and uniquely qualified as Su to lead the Department of Labor during this critical moment for workers and the economy. Su has exceptional and nuanced experience in workplace law enforcement, and in particular, addressing the unique needs of low-wage workers. Su has also earned and maintained the trust and respect of diverse stakeholders, including worker organizations, unions, and the business and employer communities.

Since July of 2021, Su has served as the Deputy Secretary of Labor and then Acting Secretary of Labor. She has proven herself to be an indispensable partner to Secretary Marty Walsh. She has shaped the DOL's agenda as a trusted advisor to Secretary Marty Walsh on every major agency initiative, including during the COVID-19 pandemic. She has a deep understanding of the DOL's resources, budget and operations. We are confident that her confirmation would ensure the smooth transition and continuity of leadership needed for the DOL to carry out President Biden's inclusive economic vision to ensure that all working families achieve economic security and opportunity and that the economy continues to grow.

Prior to the Department of Labor, Su served as Secretary for the California Labor and Workforce Development Agency, which is the largest state labor department in the country. In this role, Su managed more than 11,000 employees and a \$26.4 billion budget, while overseeing the enforcement of paid leave, unemployment benefits, workforce training and apprenticeship

programs for nearly 20 million Californians. Among her initiatives, Su worked with industry associations, employers, and labor unions to build apprenticeship programs that would meet employer needs and create good jobs for marginalized communities.

Before entering the state government service, Su spent over fifteen years as a civil rights attorney at the Asian Americans Advancing Justice Southern California, where she championed the labor and human rights of immigrant workers. Her pioneering work as a civil rights lawyer includes protecting the rights of garment workers, which further contributed to the creation of new federal immigration protections for survivors of human trafficking.

Su has spent her career leveling the playing field for workers and businesses to ensure that every working person has an opportunity to achieve economic security and opportunity. We urge the Committee on Health, Employment, Labor and Pensions (HELP) to swiftly advance her nomination to a vote on the Senate floor.

Warm regards,



Ai-jen Poo  
President and Co-Founder, National Domestic Workers Alliance  
Executive Director and Co-Founder, Caring Across Generations



Jenn Stowe  
Executive Director  
National Domestic Workers Alliance

April 17, 2023

The Honorable Bernard Sanders  
Chair, Senate Committee on Health,  
Education, Labor, and Pensions  
428 Dirksen Senate Office Bldg.  
Washington, D.C. 20510

The Honorable Bill Cassidy, M.D.  
Ranking Member, Senate  
Committee on Health,  
Education, Labor, and Pensions  
428 Dirksen Senate Office Bldg.  
Washington, D.C. 20510



Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the National Job Corps Association (NJCA), I want to express our support and full endorsement for Acting Secretary Julie A. Su to be confirmed as Secretary of Labor.

Acting Secretary Su has been a terrific champion of Job Corps, students, staff, and campuses throughout her tenure at the U.S. Department of Labor. Job Corps is one of the more complex programs the Department of Labor administers and she has been willing to dig into the weeds to give attention to and solve policy and operational challenges impacting our students and campuses. For these reasons, the NJCA is excited to support Acting Secretary Su in her nomination.

We are grateful to former Secretary of Labor Martin J. Walsh for his leadership and time at the Department. Mr. Walsh was a tremendous champion and advocate for Job Corps as well and both he and Acting Secretary Su made tremendous progress in enhancing Job Corps services. From helping establish partnerships with employers such as the Tennessee Valley Authority, Amazon Web Services, or FedEx, to highlighting the need for investments in Job Corps infrastructure, equipment, and curricula, Acting Secretary Su has been committed to improving Job Corps for the next generation of workers and employers.

We look forward to continuing to work with Acting Secretary Su and the Senate HELP Committee to strengthen and enhance Job Corps for the betterment of students, communities, and employers nationwide.

Sincerely,

A handwritten signature in black ink that reads "Byron V. Garrett".

Byron V. Garrett  
President & CEO





April 14, 2023

The Honorable Bernie Sanders  
Chairman, Committee on Health,  
Education, Labor and Pensions  
United States Senate

The Honorable Bill Cassidy  
Ranking Member, Committee on Health,  
Education, Labor and Pensions  
United States Senate

Dear Chairman Sanders and Ranking Member Cassidy,

**The National Partnership for Women & Families wishes to express our strong support of Julie Su's nomination for Secretary of Labor and to urge the Committee to advance her nomination.** The National Partnership is a nonprofit, nonpartisan advocacy group that has more than 50 years of experience in combatting barriers to opportunity for women workers, such as sexual harassment and other forms of sex discrimination and gender-based violence. The National Partnership works for a just and equitable society in which all women and families can live with dignity, respect, and security; every person has a fair chance to achieve their potential; and no person is held back by discrimination or bias. We believe that unions and workers are the backbone of our country, and that the fair labor and employment protections guarded by the Department of Labor are critical to building an economy that rewards workers, businesses and the nation as a whole.

**Deputy Secretary Su is uniquely suited to lead the Department of Labor in its mission to protect and empower workers and lead our country toward an economy that enables workers and businesses to work and thrive.** As the current Deputy Secretary of Labor, she has an intimate understanding of the agency's inner workings and will be ready to hit the ground running on day one. Su has been a leading voice in the administration's Good Jobs Initiative, a DOL-led effort aimed at improving job quality and creating good jobs for all working people, especially those in underserved communities.<sup>1</sup> Under the shared leadership of Deputy Secretary Su and Secretary of Labor Marty Walsh, DOL has worked to expand apprenticeships and training in in-demand industries like trucking, cybersecurity and industries affected by the infrastructure investments enacted during the Biden administration.<sup>2</sup> She is also leading efforts to

<sup>1</sup> See, e.g., Su, J. (2022, October 20). Collaborating Across the Biden-Harris Administration to Keep Good Green Jobs Growing for All. *U.S. Department of Labor Blog*. Retrieved 14 April 2023, from <https://blog.dol.gov/2022/10/20/collaborating-across-the-biden-harris-administration-to-keep-good-green-jobs-growing-for-all>

<sup>2</sup> Ibid.; see also U.S. Department of Labor. (2022, March 3). *Readout: Deputy Secretary Su, Teamsters Union Discuss Driving Good Jobs Initiative, Better Conditions for Workers* [News release]. Retrieved 14 April 2023, from <https://www.dol.gov/newsroom/releases/oscec/oscec20220303>; U.S. Department of Labor. (2022, November 14). *US Department of Labor Highlights the Benefits of Registered Apprenticeships as National Apprenticeship Week 2022 Launches* [News release]. Retrieved 14 April 2023, from <https://www.dol.gov/newsroom/releases/eta/eta20221114>

promote youth employment pipelines,<sup>3</sup> pre-apprenticeships<sup>4</sup> and other innovative workforce development programs that address the systemic inequalities that have long stymied the economic opportunity pipeline for women and workers of color.<sup>5</sup>

This track record shows that Deputy Secretary Su fully understands the deep and inextricable connection between expanding opportunities for women and strengthening our economy as a whole. Women, especially women of color, are increasingly serving as their families' sole or primary breadwinners<sup>6</sup> — meaning that gender and racial inequality at work has grave consequences for the ability of entire families to support themselves and participate in the economy. Persistent gender and racial wage gaps cost women nearly \$1.6 trillion every year — money they and their households could have otherwise used for housing, groceries, health care or paying off debt.<sup>7</sup> The main driver of these gaps is occupational segregation,<sup>8</sup> the phenomenon in which people of different races and genders are unevenly represented in different kinds of jobs, which have very different wages, benefits and working conditions. Women, especially women of color, disproportionately hold the lowest paying jobs and are concentrated in industries and occupations where wage theft, sexual harassment and occupational health and safety hazards run rampant.<sup>9</sup> Women are historically underrepresented in the industries that will see the greatest investments from the bipartisan infrastructure law, such as construction, manufacturing and wholesale trade. DOL has a major role to play in ensuring these investments meet their potential by removing the artificial barriers that keep talented women and people of color out of these industries and helping steer federal money into the pockets of the workers and families who need it to thrive.

Even before joining the Department of Labor, Julie Su had long been a champion for the most marginalized workers. As Secretary of the California Labor and Workforce Development Agency, Su led an agency of over 11,000 employees to secure fair labor and workplace conditions for California workers and businesses. She oversaw the state

<sup>3</sup> USDepartmentofLabor. (2023, March 9). *Youth Employment Works Summit* [Video]. YouTube. Retrieved 14 April 2023, from <https://www.youtube.com/watch?v=ifUs6ZugMW4>

<sup>4</sup> Office of Labor-Management Standards. (2023, February 17). Beyond the Bargaining Table: Pre-Apprenticeships. *U.S. Department of Labor Blog*. Retrieved 14 April 2023, from <https://blog.dol.gov/2023/02/17/beyond-the-bargaining-table-pre-apprenticeships>

<sup>5</sup> Su, J. (2022, October 11). Can the Department of Labor Strengthen the Nation's Workforce Development Infrastructure? Yes, WIOA Can! *U.S. Department of Labor Blog*. Retrieved 14 April 2023, from <https://blog.dol.gov/2022/10/11/can-the-department-of-labor-strengthen-the-nations-workforce-development-infrastructure-yes-wioa-can>

<sup>6</sup> Glynn, S.J. (2021, March 29). *Breadwinning Mothers Are Critical to Families' Economic Security*. Retrieved 14 April 2023, from Center for American Progress website: <https://www.americanprogress.org/article/breadwinning-mothers-critical-families-economic-security/>; Wells Fargo. (2021, March 8). *Wells Fargo: Younger Women Are Increasingly Earning the Title of "Breadwinner"* [News release]. Retrieved 14 April 2023, from <https://newsroom.wf.com/English/news-releases/news-release-details/2021/Wells-Fargo-Younger-Women-Are-Increasingly-Earning-the-Title-of-Breadwinner/default.aspx>

<sup>7</sup> National Partnership for Women & Families. (2022, March). *Closing the Wage Gap for All Women Workers*. Retrieved 14 April 2023, from National Partnership for Women & Families website: <https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/closing-the-wage-gap-for-all.pdf>

<sup>8</sup> Mason, J., & Gallagher Robbins, K. (2023, March). *Women's Work Is Undervalued, and It's Costing Us Billions*. Retrieved 14 April 2023, from National Partnership for Women & Families website: <https://www.nationalpartnership.org/our-work/resources/economic-justice/fair-pay/womens-work-is-undervalued.pdf>

<sup>9</sup> One Fair Wage & UC Berkeley Food Labor Research Center. (2022, April 20). *Unlivable: Increased Sexual Harassment and Wage Theft Continue to Drive Women, Women of Color, and Single Mothers Out of the Service Sector*. Retrieved 14 April 2023, from One Fair Wage website: [https://onefairwage.site/wp-content/uploads/2022/04/OFW\\_Unlivable.pdf](https://onefairwage.site/wp-content/uploads/2022/04/OFW_Unlivable.pdf); Dill, J., & Duffy, M. Structural Racism And Black Women's Employment In The US Health Care Sector. *Health Affairs* 41(2). Retrieved 14 April 2023, from <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2021.01400>

departments and boards that enforce labor laws, including minimum wage and occupational safety standards, provide paid family and medical leave and unemployment insurance benefits, fund workforce training and apprenticeship programs, combat wage theft, protect injured workers, and arbitrate public sector contract disputes. And as the COVID-19 crisis saw the rise of sophisticated criminal enterprises dedicated to fraudulently obtaining unemployment benefits across the country,<sup>10</sup> Su put new systems in place that prevented tens of billions of dollars in fraudulent payments in California.<sup>11</sup> At DOL, she has put this knowledge to work by providing significant assistance to states to modernize and fraud-proof their unemployment systems.<sup>12</sup>

Deputy Secretary Su's commitment to fighting for good jobs is exactly what is needed to build a truly just and sustainable economy, and we are confident that she will work tirelessly to continue that fight. For this reason, **we urge you to swiftly advance her nomination and support her confirmation as the next Secretary of Labor.** If you have any questions, please contact Michelle Feit, Director of Congressional Relations ([mfeit@nationalpartnership.org](mailto:mfeit@nationalpartnership.org)) or Vasu Reddy, Senior Policy Counsel for Economic Justice ([vreddy@nationalpartnership.org](mailto:vreddy@nationalpartnership.org)) at the National Partnership for Women & Families.

Sincerely,

National Partnership for Women & Families

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<sup>10</sup> U.S. Department of Justice, Office of Public Affairs. (2021, March 26). *Justice Department Takes Action Against COVID-19 Fraud* [Press release]. Retrieved 14 April 2023, from <https://www.justice.gov/opa/pr/justice-department-takes-action-against-covid-19-fraud>

<sup>11</sup> Employment Development Department, State of California. (n.d.). *The EDD's Response to Fraud*. Retrieved 14 April 2023, from [https://edd.ca.gov/en/about\\_edd/fraud-response/](https://edd.ca.gov/en/about_edd/fraud-response/)

<sup>12</sup> The White House. (2023, March 1). *Press Briefing by Press Secretary Karine Jean-Pierre* [Press release]. Retrieved 14 April 2023, from <https://www.whitehouse.gov/briefing-room/press-briefings/2023/03/01/press-briefing-by-press-secretary-karine-jean-pierre-15/>



April 19, 2023

Committee on Health, Education, Labor, and Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Senator,

On behalf of the National Urban League and our 92 affiliates in 36 states and the District of Columbia, I write to express our strong support for Julie Su as Secretary of Labor. With a 113-year history of advocating for economic security and power for African Americans and other historically underserved groups, and a proven track record of successful workforce development, the National Urban League believes in the power of a good job to uplift families and communities. Julie Su shares this belief and has demonstrated this throughout her career and, most recently, as Deputy Secretary of Labor.

Ms. Su worked closely with Secretary Walsh as Deputy Secretary to lead the Department as DOL created and implemented programs designed to improve the jobs and welfare of working people in this country. Ms. Su helped advance new DOL programs under the American Rescue Plan, which invested millions of dollars to help strengthen and expand the U.S. workforce, including by creating innovative workforce training and apprenticeship initiatives, at a time when our economy and workers needed it the most. Ms. Su also played a vital role in the creation and implementation of President Biden's Good Jobs Initiative, which has helped to raise job standards in government contracting and grant making—including higher wages, paid leave, registered apprenticeships, and pre-apprenticeships that open up opportunities for people of color, women, and other underserved communities.

Before entering government service, Ms. Su worked as a civil rights lawyer for nearly two decades, protecting vulnerable people from exploitation and abuse. As litigation director at Asian Americans Advancing Justice Southern California, Ms. Su led landmark litigation to protect immigrant worker victims of trafficking, and ultimately received the prestigious MacArthur Foundation "genius" grant for her work.

With an unwavering commitment to implementing and strengthening workplace protections and increasing access to economic opportunity for all, Ms. Su is the right person for this job. We urge you to move swiftly to advance this nomination.

Sincerely,

Marc H. Morial  
President and CEO  
National Urban League



1201 16th St., N.W. | Washington, DC 20036 | Phone: (202) 833-4000

Rebecca S. Pringle  
*President*

Princess R. Moss  
*Vice President*

Noel Candelaria  
*Secretary-Treasurer*

Kim A. Anderson  
*Executive Director*

April 17, 2023

Committee on Health, Education, Labor and Pensions  
U.S. Senate  
Washington, DC 20510

Dear Senator:

On behalf of the 3 million members of the National Education Association, who support and nurture students from pre-kindergarten through higher education as teachers, adjunct and full-time professors, education support professionals, and specialized instructional support personnel, we respectfully submit these comments in support of Deputy Secretary Julie Su's nomination to be Secretary of Labor.

At the Department of Labor, Deputy Secretary Su has continued her mission of fighting for workers' rights, protecting our nation's most vulnerable workers, and leveling the playing field for employers that pay higher wages, provide benefits such as paid leave and workplace flexibility, keep workplaces safe, and take other steps to support employees. She will be ready to lead the Labor Department on Day One.

From 2019 to 2021, Julie Su was the Secretary of the California Labor and Workforce Development Agency, with over 11,000 employees dedicated to securing fair labor and workplace conditions for California workers and businesses. From 2011 to 2018, she served as California Labor Commissioner.

Under her leadership in California, new systems were put in place to prevent and remedy fraud and abuse of the unemployment system; these systems stopped \$60 billion in fraudulent payments. Deputy Secretary Su's commitment to rooting out waste, fraud, and abuse in unemployment remains a hallmark of her leadership.

Her life story is a testament to the role our nation plays as a beacon to families who come to America from across the globe. Her immigrant parents owned a small laundromat, and Su grew up as their translator. This gave her a deep understanding of the immigrant experience and small business, inspiring her to dedicate her career to ensuring that the most vulnerable workers are protected, and that businesses adhering to workplace standards do not face unfair competition from those that do not.

While the COVID-19 health emergency has officially ended, American workers continue to suffer the fallout from a pandemic that took millions of lives, devastated many families' finances, and upended employers of all sizes and types. Elevating Julie Su—who would be the first Asian American member of the Biden cabinet—to Secretary of Labor would allow for a smooth transition and continuity to assist workers and employers in recovering from the pandemic.

Deputy Secretary Su's experience, expertise, perspective, and ability to listen deeply to all points of view will continue to inform her work to improve workplace protections and economic opportunity for all workers. NEA members are proud to support her nomination as Secretary of Labor.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Egan". The signature is written in a cursive style with a prominent loop at the end of the last name.

Marc Egan  
Director of Government Relations  
National Education Association



March 7, 2023

The Honorable Bernie Sanders  
Chairman, Committee on Health, Education,  
Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy,  
Ranking Member, Committee on Health,  
Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

NECA would like to voice its support and quick nomination process of Julie Su to serve as the 30<sup>th</sup> Secretary of Labor of the U.S. Department of Labor. In her current role as Deputy Secretary, Ms. Su has professionally and efficiently led the Department for both employees and employers.

The National Electrical Contractors Association (NECA) is a National Trade Association and the voice of the \$202 billion electrical contracting industry that brings power, light, and communication technology to buildings and communities across the U.S. NECA represents over 4,000 electrical contractor members served by 118 local Chapters across the country.

During her tenure as Deputy Secretary of Labor, Ms. Su has served as the de-facto chief operating officer for the department, overseeing its workforce, managing its budget and executing the priorities of the Secretary of Labor. Ms. Su has worked in tandem with Secretary Walsh to listen to both employers and employees to best advance policy. To that end, this comes at a time where the Department is to play an active role in implementing legislation of Infrastructure Investment and Jobs Act, CHIPS and Science Act, and Inflation Reduction Act that requires the Department utmost attention to ensure proper implementation.

Prior to joining the U.S. Department of Labor, Deputy Secretary Su served as the secretary for the California Labor and Workforce Development Agency. As California labor commissioner from 2011 through 2018, Su enforced the state's labor laws to ensure a fair and just workplace for both employees and employers.

Once again, I urge you to take swift action and confirm this critical nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "David Long", is written over a horizontal line. The signature is stylized and cursive. There are several light blue stars scattered around the signature area.

David Long  
Chief Executive Officer

Cc: Charles Schumer, Majority Leader  
Mitch McConnell, Minority Leader



**Rebecca Dixon**  
President & CEO

[www.nelp.org](http://www.nelp.org)

**NELP National Office**  
90 Broad Street  
Suite 1100  
New York, NY 10004  
212-285-3025

**Washington, DC Office**  
1350 Connecticut Avenue NW,  
Suite 1050  
Washington, DC 20036  
202-887-8202

**California Office**  
2030 Addison Street  
Suite 420  
Berkeley, CA 94704  
510-982-5945

April 17, 2023

The Honorable Bernie Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the National Employment Law Project (NELP), a non-profit 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 for Julie Su's nomination to be our next Secretary of the Department of Labor.

Ms. Su has served as Deputy Secretary at DOL since March of 2021, and in that time was an instrumental partner with Secretary Walsh in charting an agenda with President Biden that would uplift working people and make strides to ensure that all workers have the opportunity to thrive in good jobs. Together they had many successes and have set a path for continued success. No one is better suited to continue the important work of DOL than Deputy Secretary Su.

It is no wonder that Ms. Su is such an exceptional public servant. Her lived experience as a child of immigrants, translating and interpreting for her parents, showed her at a young age that advocacy is a powerful tool that shapes our lives and our society. These experiences not only shaped her life but led her to a career as a legal advocate and public servant committed to social justice.

Ms. Su's tenure as a civil rights lawyer and government leader in California, a state with the country's largest economy, exemplifies her ability to steer massive workforce programs alongside officials and working people. As the Labor Commissioner of California, Su was an innovative leader who spearheaded one of the most effective enforcement programs in the nation. Under her leadership, the California Department of Industrial Relations launched initiatives to combat workplace violations like wage theft and issued landmark fines to employers with a history of exploiting workers.

During her tenure as California's Labor Commissioner, Su also had formal partnerships with the business community and high-road employers. Her work with the California Chamber of Commerce and other industry associations led to policy solutions that benefited workers and high-road employers alike. To that end, the California Chamber of Commerce "enthusiastically support[s]" her nomination to be Secretary of Labor.<sup>1</sup>

<sup>1</sup> <https://lachamber.com/news/2023/03/09/statements/la-area-chamber-board-supports-julie-su-nomination-for-secretary-of-department-of-labor/>.

Most relevant, however, are Deputy Secretary Su's last two very successful years at DOL. Together with Secretary Walsh, they have led key initiatives which are designed to help deliver on the promise of an economy that works for everyone. The Bipartisan Infrastructure Law, CHIPS Act, and Inflation Reduction Act are creating investments in new factories and construction in communities across America and Ms. Su has been instrumental to DOL's leadership in making sure these jobs are good jobs and widely available to workers across the country.

She and Secretary Walsh have led a resurgence in workforce training to ensure that people across the country have the skills and training they need to access good paying jobs. They have expanded apprenticeship opportunities in in-demand industries, made over \$80 million available in regions to develop sectoral strategies to make sure that local workforces are equipped to handle the infrastructure investments coming to their communities, and have expanded pre-apprenticeship opportunities to create more on-ramps to valuable apprenticeship programs.

Deputy Secretary Su has also helped lead the national efforts to prevent and remedy unemployment insurance fraud. Based on her first-hand experience overseeing the California UI program during the first year of the pandemic, Ms. Su knows the vulnerabilities of the state programs, but also has keen insight in how to guard against fraud and abuse. Under Ms. Su's leadership, California quickly put in place new systems to protect against fraud, and these systems became models for other states looking to improve their programs as well. As Deputy Secretary, she's been involved in DOL's use of ARPA funds to provide states with resources for technological, operational, and administrative modernization to help states fraud-proof their unemployment insurance systems.

She approaches all her work with fidelity to the law as the hallmark of all she does. Her approach is reflected in DOL's restrained Independent Contractor proposed rule which states explicitly and absolutely that DOL does not have the authority to implement an ABC Test under the existing law. Nor does the proposed rule have anything resembling an "ABC Test" in it, which puts the burden of proof on the employer to prove that a worker is an employee. Indeed, the International Franchise Association explicitly "applauds the proposal for its express recognition that the ABC test does not apply to the Fair Labor Standards Act[.]"<sup>2</sup>

Finally, Deputy Secretary Su's lived experience is her greatest qualification for the position of Secretary of Labor. She is the daughter of Chinese immigrants who came on a cargo ship because they couldn't afford a passenger ticket. Together, her parents built a small laundromat and franchise pizza delivery business, and raised a daughter who became a leading workers' rights advocate and civil rights leader. Su knows that good jobs are essential both for economic security for workers and their families, and for businesses to succeed.

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<sup>2</sup> <https://www.franchise.org/media-center/press-releases/ifa-cautions-dol-of-overly-broad-independent-contractor-rule>.

We appreciate your timely consideration of Ms. Su's nomination and look forward to her confirmation hearing, where we know she will demonstrate why she is so qualified for the position of Secretary of the U.S. Department of Labor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rebecca Dixon', with a horizontal line extending from the end of the signature.

Rebecca Dixon  
President & CEO



April 19, 2023

Dear Members of the United States Senate,

We write to express in the strongest possible terms our organizations' support for Julie Su to be the next United States Secretary of Labor. At a time when the role could not be more critical to the nation's well-being, there is no better person than Julie Su to lead the Department of Labor. Since July of 2021, Ms. Su has served as the Deputy Secretary of Labor, where she has shaped every aspect of the agency's effort to protect and defend the rights of our society's most vulnerable workers during the COVID-19 pandemic. She's served as a trusted partner to Secretary Walsh, and the seniormost operational leader of the agency's 16,000 federal employees and \$14 billion-plus budget. With her outstanding performance and steadfast leadership, Deputy Secretary Su has earned and maintained the trust and respect of her colleagues in federal government, as well as key stakeholders and leaders within unions, worker organizations, businesses, and civil society. As organizations that protect, promote, and defend the rights of society's most vulnerable people, we give our strong and unreserved support to Julie Su to be the next Secretary of Labor.

Deputy Secretary Su's impressive record extends to her time before serving as the Deputy Secretary of Labor. As the Secretary for the California Labor and Workforce Development Agency, the largest state labor department in the country, Deputy Secretary Su led an agency of more than 11,000 employees with a \$26.4 billion budget. In this role, she oversaw worker safety, paid leave, and jobless benefit programs for nearly 20 million Californians. Over the course of nearly ten years in office, Deputy Secretary Su developed a track record of reinvigorating labor agencies to deliver on their mission. She redefined effective labor law enforcement through targeted, industry-specific investigative approaches, responsive partnerships with labor unions and worker organizations, creative public education campaigns, and smart relationships with employers and industry associations. Her deep familiarity with the systemic barriers faced by low-wage workers, who are often immigrants and people of color, has allowed her to pioneer successful new approaches to combating the scourges of worker misclassification and retaliation. Her nuanced understanding of the intersections between racism, sexism, and labor exploitation will be urgently needed in a role that has significant responsibility for bringing greater gender and racial equality to U.S. workplaces.

Before her time in California government, Deputy Secretary Su spent fifteen years at Asian Americans Advancing Justice Southern California (formerly known as Asian Pacific American Legal Center), where she was known for combining impact litigation with multi-racial organizing, community education, policy reform, coalition building, and media work. She was among the lead counsel in a federal lawsuit that held brand name garment manufacturers and retailers liable for the slave labor conditions of subcontractors' sweatshops, obtaining a multi-million dollar settlement, and earning the workers involved legal immigration status. The cases she litigated, in addition to her legislative advocacy, helped spur the passage of AB633, a landmark law that ensured brand name retailers would be held responsible if the garment

Los Angeles  
3450 Wilshire Blvd. #108 - 62 | Los Angeles, CA 90010  
(213) 639-3900

Washington, DC  
P.O. Box 34573 | Washington, DC 20043  
(202) 216-0261

[www.nilc.org](http://www.nilc.org)

workers who sewed their apparel experienced wage theft. Her work also paved the way for new immigration remedies for human trafficking survivors.

As woman of color who grew up in an immigrant household, Deputy Secretary Su embodies a commitment to diversity, equity, and inclusion. She has also received the MacArthur "Genius Grant" and has been named one of the "Fifty Most Noteworthy Women Alumni" of Harvard Law School. She has spent her career passionately advocating for marginalized workers and managed and built the most diverse team at the highest levels of state government in the California Labor and Workforce Development Agency. It is a critical time for the leadership of women and people of color in our country, and Deputy Secretary Su is a proven leader who will represent and promote equity, equal opportunities, and inclusion for all.

We applaud Secretary Walsh for the many efforts he championed to promote and defend the rights of low-income, minority, and immigrant workers with Deputy Secretary Su's thoughtful and tireless partnership and support. In President Biden's statement celebrating Secretary Walsh's service, he rightly noted that he has "gone to bat for working families every day." He did so with Deputy Secretary Su at his side, and we can't think of a better successor as we collectively rebuild our economy with worker dignity and power as our guiding principles. We strongly and unreservedly support Julie Su to be the next Secretary of Labor.

Sincerely,

A Better Balance  
 APIAHF  
 Asian American and Pacific Islander Legislative Caucus  
 Asian Americans Advancing Justice - AAJC  
 Asian Americans Advancing Justice - Asian Law Caucus  
 Asian Americans Advancing Justice Southern California (AJSOCAL)  
 Asian Pacific American Labor Alliance, AFL-CIO  
 ASISTA Immigration Assistance  
 Aspen Institute Economic Opportunities Program  
 Association of Farmworker Opportunity Programs (AFOP)  
 Association of People Supporting Employment First (APSE)  
 Awood Center  
 Bet Tzedek Legal Services  
 Black and Brown United in Action  
 Brazilian Women's Group  
 Building Skills Partnership  
 CA API Legislative Caucus Institute

California Employment Lawyers Association  
California Rural Legal Assistance  
Care in Action  
Catholic Migration Services  
Center For Asian Americans United For Self Empowerment (CAUSE)  
Center for Law and Social Policy (CLASP)  
Center for Popular Democracy  
Center for Worker's Rights  
Central American Resource Center  
Centro de los Derechos del Migrante  
Chinese Progressive Association  
CLEAN Carwash  
Cleveland Jobs with Justice  
Coalition for Humane Immigrant Rights (CHIRLA)  
Connecticut Shoreline Indivisible  
Connecticut Voices for Children  
Cornell University Labor Law Clinic  
CRLA Foundation  
Economic Policy Institute  
Equality California  
Farmworker Association of Florida  
FishPotterBolanos, LLC  
Florida Policy Institute  
Global Labor Justice-International Labor Rights Forum  
Good Jobs First  
Greater Boston Legal Services, Employment Law Unit  
HEAL Food Alliance  
Hospitality Training Academy (HTA)  
Houston Immigration Legal Services Collaborative  
Immigration Hub  
Japanese American Citizens League  
Jobs with Justice East TN  
Justice at Work Pennsylvania  
Justice in Motion

Kakalec Law PLLC  
KAYA: Filipino Americans for Progress  
Kentucky Equal Justice Center  
KIWA  
La Raza Centro Legal  
Maine Center for Economic Policy  
Maintenance Cooperation Trust Fund  
Make the Road NY  
MassCOSH - Massachusetts Coalition for Occupational Safety & Health  
Michigan Immigrant Rights Center  
Migrant Clinicians Network  
MomsRising  
National Asian Pacific American Bar Association (NAPABA)  
National Center for Law and Economic Justice  
National Council for Occupational Safety and Health  
National Domestic Workers Alliance  
National Education Association  
National Employment Law Project  
National Lawyers Guild Labor and Employment Committee  
National Organization for Women  
National Partnership for New Americans  
National Partnership for Women & Families  
New Immigrant Community Empowerment  
New York Taxi Workers Alliance  
North Carolina Justice Center  
Northwest Workers' Justice Project  
OCA-Asian Pacific American Advocates  
One Fair Wage  
Oxfam America  
Pacific Asian Counseling Services  
Polaris  
Public Justice  
Public Justice Center  
Resilience Force

Santa Clara County Wage Theft Coalition  
SEIU  
SEIU/CWA retired  
Shriver Center on Poverty Law  
Silver State Equality-Nevada  
Still Waters Anti-trafficking Program of the Reformed Church of Highland Park Affordable Housing Corp  
Sunita Jain Anti-Trafficking Initiative  
Sur Legal Collaborative  
TakeRoot Justice  
The Legal Aid Society  
Three Oaks  
UC Irvine Workers, Law, and Organizing Clinic  
UCLA Labor Center  
UndocuBlack Network  
Unidad Latina en Accion CT  
UnidosUS  
United We Dream  
Voces de la Frontera  
WeCount!  
Worker Justice Center of New York  
Workplace Fairness



April 6, 2023

The Honorable Bernie Sanders  
Chairman, Committee on Health, Education,  
Labor and Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, D.C. 20510

The Honorable Bill Cassidy, M.D.  
Ranking Member, Committee on Health,  
Education, Labor and Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, D.C. 20510

**2023 OFFICERS**

- PRESIDENT**  
Victoria Woodards  
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David Sander, Ph.D.  
VICE MAYOR  
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- SECOND VICE PRESIDENT**  
Sharon Weston Broome  
MAYOR-PRESIDENT  
Baton Rouge, Louisiana
- IMMEDIATE PAST PRESIDENT**  
Vince Williams  
MAYOR  
Union City, Georgia
- CHIEF EXECUTIVE OFFICER/  
EXECUTIVE DIRECTOR**  
Clarence E. Anthony

Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the National League of Cities, the oldest and largest organization in the United States representing municipal governments, I write to you today in support of Julie Su to be the next Secretary of the United States Department of Labor.

The historic federal investments made in infrastructure, clean energy and advanced manufacturing through the Bipartisan Infrastructure Law (BIL), the CHIPS and Science Act, and the Inflation Reduction Act (IRA) will require a diverse, skilled and ready workforce to build America's next-generation infrastructure. It will also require the support of the care economy to ensure our residents are supported – including women, people of color, and people with disabilities. Local leaders across our country's 19,000 cities, towns and villages will depend upon strong federal partners to build policies, practices, and programs to train and place workers in good jobs that will build and maintain these transformative infrastructure projects.

In her role as Deputy Secretary, Julie Su has been a strong partner for cities, ensuring that that voice of local government is at the table as the Department of Labor works across federal agencies to elevate the importance of embedding workforce considerations into the federal funding opportunities that will travel to our nation's communities. Roads, bridges, water systems, broadband networks, and semiconductor facilities cannot be built without workers and ensuring stronger on-ramps for workers facing barriers to success.

As partners with the Department of Labor on the *Good Jobs, Great Cities* initiative to accelerate city efforts to design, develop, and launch workforce initiatives that build pathways into good jobs created by these federal investments, we are thankful for the leadership and partnership of Julie Su in recognizing the tremendous need and opportunity in this moment. In the cities, towns, and villages across our country, both urban and rural, where more than 218 million Americans live, it is essential that we maintain a strong federal-local partnership on our approach to local workers and the economic vitality of our communities. As such, I respectfully urge you to confirm Julie Su for Secretary of Labor.

Sincerely,

Clarence E. Anthony  
CEO and Executive Director  
National League of Cities  
CC: United States Senate



April 19, 2023

The Honorable Bernie Sanders  
 Chair, Committee on Health, Education, Labor & Pensions  
 United States Senate  
 428 Senate Dirksen Office Building Washington, DC 20510

The Honorable Bill Cassidy  
 Ranking Member, Committee on Health, Education, Labor & Pensions  
 United States Senate  
 428 Senate Dirksen Office Building Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of OCA-Asian Pacific American Advocates and our 50 chapters and affiliates across the country, we write to express our strong support for the confirmation of Julie Su to serve as the next U.S. Secretary of Labor.

Founded in 1973, OCA-Asian Pacific American Advocates is a national, member-driven civil rights organization of community advocates dedicated to advancing the social, political, and economic well-being of Asian Americans and Pacific Islanders (AAPIs).

Since 2001, there has not been a newly nominated Asian American woman to the President's Cabinet. We believe it is vital that the Cabinet reflects the diversity that is America. Confirming Julie Su to the position of Secretary of Labor will be a crucial step in an equitable representation of the AAPI community.

Ms. Su is more than qualified for the role and has demonstrated her capability as an effective Deputy Secretary. Her experience fighting for the rights of women workers as a groundbreaking civil rights attorney and serving as the Secretary of the California Labor and Workforce Development Agency truly shows her commitment to the role. As Deputy Secretary of Labor, Ms. Su has expertly overseen and enforced state labor laws, combatting wage theft as a top priority and fighting for equal pay.

The confirmation of Ms. Su will truly benefit American workers, and her expertise will allow the government to effectively address labor concerns, especially those of vulnerable and disadvantaged workers.

We wholly support Ms. Su's nomination and hope that you will consider her with the highest regards. Please feel free to reach out with any questions.

Sincerely,

Thu Nguyen  
 Executive Director  
 OCA – Asian Pacific American Advocates



The Honorable Bernie Sanders, Chair  
Committee on Health, Education, Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Bill Cassidy, Ranking Member  
Committee on Health, Education, Labor &  
Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Julie Su to serve as Secretary of the U.S. Department of Labor**

Dear Chairman Sanders, Ranking Member Cassidy, and Members of the Committee:

Oxfam America urges you to advance without delay the nomination of Julie Su to serve as Secretary of the U.S. Department of Labor (DOL). As an organization committed to equality and fighting the injustice of poverty all over the world, Oxfam advocates for workers' rights and economic justice. We urge the Committee to advance the nomination of Deputy Secretary of Labor Julie Su, someone who has spent her career ensuring policies support workers and working families.

Oxfam's research, organizing, and policy advocacy on workers' rights emphasize the need to expand worker protections, invest in a caring economy, and increase wages for all workers. Deputy Secretary Su's track record at the DOL since July 2021, and as Secretary of the California Labor and Workforce Development Agency, the largest state labor department in the country, has shown she is a strong ally in enhancing rights and protections for workers.

These are nonpartisan issues regarding the Department's role in supporting working people and their families. Deputy Secretary Su's record demonstrates she does not work in a partisan way, and instead focuses on advancing the rights and dignity of all people. During her time as Deputy Secretary of Labor, she has helped implement the DOL's Good Jobs Initiative, supported by bipartisan investments through the Infrastructure Investment and Jobs Act of 2021.

Deputy Secretary Su has time and again worked to support the most vulnerable workers, ranging from fighting for the rights of immigrant workers in the garment industry and victims of human trafficking, to combating wage theft and pay inequities, to pushing for the country's first paid leave program in California. Her expertise in issues of labor law and human rights, as well as her understanding of mechanisms of enforcement, provides an invaluable opportunity for one of the most critical components of our federal government. Supporting Deputy Secretary Su's nomination is an opportunity to create a seamless leadership transition at the DOL and to continue the important progress made over the last two years.

Oxfam's research demonstrates that robust labor laws correlate to community wellbeing, including reduced levels of poverty, hunger, and infant mortality. A strong leader like Deputy Secretary Su will help us move toward a more equal, prosperous, and just society. We strongly urge the members of the



committee to advance Julie Su's nomination to the Senate floor, and we hope to see her prompt confirmation as the next Secretary of the Department of Labor.

Sincerely,

A handwritten signature in black ink, appearing to read "Abby Maxman", with a long horizontal flourish extending to the right.

Abby Maxman  
President & CEO, Oxfam America



**THE PORT  
OF LOS ANGELES**

425 S. Palms Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

Karen Bass	<i>Mayor, City of Los Angeles</i>				
Board of Harbor Commissioners	Jaime L. Lee <i>President</i>	Edward R. Renwick <i>Vice President</i>	Diane L. Middleton <i>Commissioner</i>	Lucia Moreno-Linares <i>Commissioner</i>	Anthony Pirozzi, Jr. <i>Commissioner</i>
Eugene D. Seroka	<i>Executive Director</i>				

April 19, 2023

The Honorable Bernie Sanders  
Chairman  
Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC, 20510

**Re: Nomination of Julie Su for United States Secretary of Labor**

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the Port of Los Angeles ("POLA" or "Port") I write to support President Biden's nomination of Julie A. Su to serve as the U.S. Secretary of Labor.

The Port of Los Angeles is the nation's premier gateway for international commerce and the busiest seaport in the Western Hemisphere. In 2022, the Port facilitated more than \$200 billion in trade—connecting every corner of the U.S. with 160 countries around the world—and handled a total of 9.9 million container units. The operational scale of the Port is vast, including 27 private terminals, 270 berths, roughly 200,000 unique shippers, 1,700 annual ship calls, and 100 daily trains. With 15,000 longshore workers, 20,000 daily truck trips, and nearly 2 billion square feet of commercial warehousing space in the region, the port complex and our broader region is home to a large and diverse goods movement workforce. Therefore, our nation's economic success and prosperity requires a Secretary of Labor that is familiar with workforce issues here at America's port.

Since her time as Secretary of the California Labor and Workforce Development Agency, Julie Su has served as a thought partner as the Port promotes the advancement of the goods movement workforce. As California Labor Secretary, she and her team worked with POLA to develop innovative training programs to help entering longshore workers reduce injuries and increase productivity on our port terminals. Since that time, she has also supported POLA's vision, which will soon become a reality, to build the nation's first goods movement training campus at the port. The 20-acre facility will train longshore, trucking, and warehouse workers and serve as an industry resource to train workers on how to operate, maintain, and repair zero emission cargo handling equipment.

Due to the variety of stakeholders in the goods movement sector, the industry has a complex labor environment. Acting Secretary Su – as California Labor Secretary and US Deputy Secretary of Labor – has successfully navigated this environment over the years by bringing together (with POLA serving as a co-host) port authorities, labor unions, the trucking community, and private sector employers to discuss how the various stakeholders can work together on issues such as worker centered training, health and safety of essential workers that continued to work during the Covid-19 pandemic, or how to introduce cleaner equipment and vehicles to this industry while supporting the workforce most directly impacted by the new technology.

Her collaboration and knowledge of this goods movement industry makes her confirmation critical, now more than ever, as global and national supply chains continue to re-balance after the Covid-19 pandemic.

Please accept the support of the Port of Los Angeles for the nomination and quick confirmation of Julie A. Su as the next United States Secretary of Labor.

Respectfully,

Port of Los Angeles



EUGENE D. SEROKA  
Executive Director

EDS-APS:mn

April 19, 2023,

Dear Chairman Sanders and Ranking Member Cassidy:

I write to support the nomination of Julie Su to be Secretary of Labor.

I had the privilege of working as a summer law clerk at the Asian Pacific American Legal Center more than 20 years ago, under Deputy Secretary Su's supervision. In her long tenure at APALC (now Asian Americans Advancing Justice) she fought for workplace rights for immigrant workers including victims of human trafficking. As a law clerk that summer, I had the opportunity to work on cases involving Latino workers who were severely underpaid in garment industry "sweatshops" in L.A. That law school clerkship and Julie Su's encouragement inspired me to continue advocating for low-wage immigrant workers - primarily Farmworkers, restaurant/food service workers, and home care providers - to this day.

The work that the Department of Labor does to protect workers' rights is so important, including, and, in my opinion, especially DOL's efforts to curb the exploitation of or unlawful practices affecting America's most vulnerable workers - immigrants, guest workers, children and workers in high safety-risk environments. If left unchecked, abusive and illegal employment practices can depress wages and working conditions in the US workforce at large. Deputy Secretary Su has a deep understanding of the importance of the DOL's work in these areas and how it affects our economy and communities.

We also know that Deputy Secretary Su brings with her extensive experience addressing all aspects of the workforce (from employee rights to employer needs) having served as Secretary of the California Labor and Workforce Development Agency and serving for the last few years as Deputy Labor Secretary. In her most recent role, Su has worked hand-in-hand with Secretary Walsh to create a record-breaking number of good-paying jobs and to expand apprenticeship and workforce development programs. She has a proven track record of working with Chambers of Commerce, industry associations, employers, and unions to help create jobs for historically marginalized communities and meet employer needs. Su knows that good jobs are essential both for economic security for workers and their families but also for businesses to succeed.

In short, Deputy Secretary Su is eminently qualified to lead the Department of Labor and the best choice to advance President Biden's agenda for an inclusive, strong economy. I urge you to advance Julie Su's nomination to a vote on the Senate floor and act swiftly to confirm her as the next U.S. Secretary of Labor.

Sincerely,

Lakshmi Ramakrishnan  
Attorney, Sugar Land, Texas



The Honorable Bernie Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Julie Su to serve as Secretary of the U.S. Department of Labor**

Dear Chairman Sanders, Ranking Member Cassidy, and Members of the Committee:

The Restaurant Opportunities Centers (ROC) United applauds President Biden's decision to nominate Deputy Labor Secretary Julie Su as the next Labor Secretary. On behalf of all restaurant workers, we write to you to urge the Committee to advance the confirmation of Deputy Secretary Su to serve as Secretary of the U.S. Department of Labor. We believe that Deputy Secretary Su will ensure a healthy industry that benefits all workers, including women, immigrants, and members of the LGBTQA and BIPOC workers in the food and restaurant industry.

As the Labor Secretary, it is vital to have a leader with a proven commitment to equity and inclusion and diverse perspectives, and Deputy Secretary Su represents and embodies the integrity, values, expertise, and vision necessary to transform the Department of Labor and help move our nation forward. Julie Su is the most qualified candidate for Secretary of Labor and the best choice to advance Biden's agenda for an inclusive economy. She is ready to lead on day one because she was a key partner for Secretary Walsh and deeply involved in every major initiative. Deputy Secretary Su represents the best of America. The daughter of Chinese immigrants who came on a cargo ship because they couldn't afford a passenger ticket, built a small laundromat business and raised a daughter who became a leading worker's advocate and civil rights leader.

We thank outgoing Labor Secretary Marty Walsh's incredible commitment to advocacy work, pushing for full enforcement of all labor protections for low-paid restaurant workers. Given Deputy Secretary Su's successful track record of ensuring fair treatment for workers, as the next Secretary of Labor, she will continue to build on his success narrowing wage gaps, combating cases of wage theft and harassment in the workplace, and the advancement of job protections, such as paid sick, family leave, retirement benefits and proper healthcare for workers.



In these challenging times, Deputy Secretary Su is in the best position to understand the needs and work of the Department of Labor. She will ensure that we have access to high-quality research and nonpartisan strategies to continue increasing employment in the restaurant sector, especially after it was decimated by the pandemic, and providing economic growth opportunities to hard-working American families. We strongly urge the HELP Committee to swiftly advance her nomination to a vote on the Senate floor. Please do not hesitate to contact Dr. Lawren Long, [lawren@rocunited.org](mailto:lawren@rocunited.org) or Anthony Advincula, [anthony@rocunited.org](mailto:anthony@rocunited.org), should you have any questions about this remarkably qualified candidate.

Sincerely,  
Restaurant Opportunities Centers United



April 5, 2023

Dear Senator:

On behalf of the two million members of the Service Employees International Union (SEIU), I write in strong support of Acting Labor Secretary Julie Su to be confirmed as the U.S. Secretary of Labor. Acting Secretary Su has dedicated her life and career to championing working people in policy and in practice. As an attorney she won landmark cases for workers, and throughout her career has worked relentlessly to ensure millions of workers have access to organizing unions and a safe working environment. During her time in the Biden Administration, Acting Secretary Su has been at the forefront of efforts to improve jobs and working conditions for all workers, with a particular emphasis on workers of color, women, and low-income workers who too-often are left behind. SEIU members have no doubt that she will continue this impressive track record should she be confirmed to lead the Labor Department.

MARY KAY HENRY  
International President

APRIL VERRETT  
International Secretary-Treasurer

NEAL BISNO  
Executive Vice President

JOSEPH BRYANT  
Executive Vice President

HEATHER CONROY  
Executive Vice President

LESLIE FRANE  
Executive Vice President

ROCIO SÁENZ  
Executive Vice President

SEIU members consider Acting Secretary Su an ally and a friend who welcomes workers' input in decision making. This past February, then Deputy Secretary Su joined SEIU Local 500 child care provider Crystal Barksdale and then-Secretary of Labor Marty Walsh for a roundtable discussion on centering equity and job quality to help build a stronger and more prepared child care workforce. Importantly, the conversation highlighted how unions help raise wages and benefits for all workers. During that roundtable, they also discussed recent investments in infrastructure, and the historic role of unions and worker organizing in strengthening and expanding a Black middle class. Centering workers of color is essential to building a stronger economy that works for everyone no matter where they live, what they look like, or where they come from. SEIU members know that as Labor Secretary, Acting Secretary Su will continue to focus on all working families and getting input directly from working people, on how best to improve their lives and communities.

Workers have a strong ally in Acting Secretary Su. While the previous Administration failed to use its authorities to keep workers safe, Acting Secretary Su has worked alongside former Secretary Walsh to reinvigorate the Labor Department to ensure it focuses on its core mission. During her tenure as Deputy Secretary, the Department has responded to the lessons of the COVID-19 pandemic by implementing strong new regulations and laws that helped make America's essential workers safer at work. This work builds off her stellar record as California Labor Secretary, where she was integral in the passage of SB 1159, a bill that created a rebuttable presumption that ensures if a COVID-19 outbreak occurs at an employee's worksite, workers will have access to the workers' compensation system.

SERVICE EMPLOYEES  
INTERNATIONAL UNION  
SOC, CLC

1800 Massachusetts Ave., NW  
Washington, DC 20036

202.730.7000

www.SEIU.org

As a leader in the labor movement, first as the California Labor Commissioner and now as Acting Labor Secretary, Acting Secretary Su has demonstrated a lifelong commitment to working people. As the California Labor Commissioner, she transformed the state's under-resourced team into an aggressive and effective labor law enforcement division ensuring employers were held accountable for breaking the law and helping amplify the voices of workers of color, women, and underrepresented communities. Additionally, Acting Secretary Su will ensure that the Department of Labor continues to learn from the COVID-19 pandemic and how unsafe workplaces, low-quality jobs, the exclusion of immigrant workers from protections, and systemic

Page 2  
April 5, 2023

racism do more than just keep workers impoverished: they have fatal consequences on workers' health and well-being and end up hurting our entire economy. SEIU members are confident that Acting Secretary Su, should she be confirmed as Secretary, will be fully committed to strengthening workers' voices, and recognizing the value and worth of every worker so that we can build a stronger economy that works for us all.

For these reasons we urge you to confirm Acting Secretary Julie Su for Secretary of Labor. We will add any related votes on the nomination to our legislative scorecard. Should you need any additional information, please contact John Foti, SEIU Senior Legislative Program Manager, at [john.foti@seiu.org](mailto:john.foti@seiu.org).

Sincerely,



Mary Kay Henry  
International President

MKH:BW:jf



April 3, 2023

*Submitted via email*

Re: SHRM Supports the Nomination of Julie Su for Secretary of Labor

Dear Senator:

I write on behalf of the Society for Human Resource Management (SHRM) and our more than 325,000 HR professionals and business executive members in 165 countries to express SHRM's support for the nomination of Julie Su to lead the U.S. Department of Labor (DOL). As the foremost expert, convener, and thought leader on issues impacting today's evolving workplaces, SHRM seeks to create better workplaces where both employers and workers thrive. SHRM has an unwavering commitment to focus on policy, not politics, and makes a concerted effort to reach across party lines and work with *all* administrations to secure the lives and livelihoods of American workers.

Former Secretary Walsh was one of President Biden's first cabinet nominations and, within weeks of his nomination, he was confirmed by the U.S. Senate with bipartisan support. Many U.S. Senators may not have agreed with the former Secretary's priorities for the DOL, but it was understood that the position of the Secretary of Labor had to be filled. SHRM believes this sentiment still stands. Today, American businesses and workers are faced with many crises, including talent shortages, a looming economic recession, mass layoffs, and much more. During these challenging, dynamic and rapidly evolving economic times, American businesses and workers are looking to Congress to build consensus and deliver results that create better workplaces, a better America and a better world. This includes coming together to ensure that the agency entrusted with advancing opportunities for profitable employment, improving work conditions, and fostering the welfare of all workers has consistency and continuity in its leadership. In the absence of a Presidentially appointed and Senate-Confirmed Secretary of Labor, many of today's pressing workplace issues will continue to be deferred or postponed, only furthering confusion, uncertainty, and unpredictability for American businesses and workers.

At SHRM, we commend Acting Secretary Su's commitment to public service and her efforts in building a fair and inclusive economy. SHRM advocates hiring workers from untapped talent pools, such as veterans, military spouses, caregivers, individuals aged 60 or older, differently abled workers, those with a criminal record, and opportunity youth. This year SHRM proudly celebrates 17 years of its strategic alliance with DOL's Office of Disability Employment Policy and looks forward to partnering with Acting Secretary Su should she be Senate confirmed in building a stronger, more resilient, and more inclusive economy.

It is SHRM's responsibility as the voice of all things work to advocate and collaborate with *all* policymakers to develop and implement workplace policies that build a world of work that works for all. SHRM will continue to put policy above politics and collaborate with the next Secretary of Labor to advance clear, balanced and consistent workplace policies that serve the long-term interests of American work, workers, and workplaces.

SHRM has been a driver for change in the workplace for 75 years. As we look toward our centennial year in 2048, SHRM is here to continue serving as a trusted nonpartisan partner to Congress to build consensus and deliver results that create better workplaces, a better America and a better world.

Sincerely,

A handwritten signature in blue ink, appearing to read "Johnny C. Taylor, Jr.".

Johnny C. Taylor, Jr., SHRM-SCP  
*President & CEO*

April 19, 2023

**VIA Email Only**

The Honorable Bernie Sanders, Chair  
The Honorable Bill Cassidy, Ranking Member  
Senate Committee on Health, Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Skadden Fellows Support for Julie Su's Nomination to Serve as Secretary of the U.S. Department of Labor**

Dear Chair Sanders, Ranking Member Cassidy, and Members of the HELP Committee:

We are former and current Skadden Foundation Fellows ("Skadden Fellows") and we write in strong support of Julie Su's nomination to be Secretary of the U.S. Department of Labor (DOL).

The Skadden Fellowship is a two-year fellowship that offers young lawyers the opportunity to "pursue the practice of public interest law on a full-time basis" and whose guiding principle is "to improve legal services for the poor and encourage economic independence." Skadden Fellows are a diverse group of public service lawyers whose members include attorneys in private practice, government lawyers, legal academics, legal services lawyers, and attorneys at not-for-profit organizations. We firmly believe Ms. Su has the experience, temperament, and integrity needed to effectively lead the DOL.

Julie Su began her legal career in 1994 as a Skadden Fellow at the Asian Pacific American Legal Center (APALC) in Los Angeles representing exploited and indigent immigrant workers, particularly sweatshop laborers in the garment industry. Ms. Su has never stopped fighting for the most marginalized and vulnerable workers, going on to become APALC's Litigation Director, California's Labor Commissioner, Secretary of the California Labor and Workforce Development Agency, and now Acting Secretary of the DOL.

What makes Ms. Su so well-suited to serve in the most senior role at the Department of Labor is her combination of legal acumen and deep concern for workers, with a proven track record of bringing together a wide range of stakeholders to ensure fair implementation of our labor laws. In particular, Ms. Su is widely respected in the business community, understanding the importance of being an even-handed and fair leader among all those who have interests before the Department.

Ms. Su also brings critical diversity to President Biden's administration. She would be the first Asian American cabinet secretary in President Biden's administration and the second Asian American to serve as the Secretary of Labor. The daughter of Chinese immigrants, Ms. Su's parents ran a small laundromat and pizza delivery business, providing her unique insight into the realities and challenges facing small business owners in this country.

For the past two years, Ms. Su has worked as a brilliant leader alongside Secretary Walsh, championing the Good Jobs Initiative to improve job quality and ensure workers' access to well paying, safe, and fair jobs, improving conditions for contractors and tipped workers, and fighting for worker's right to organize. As the nation continues to grapple with post-COVID 19 economic recovery, it is critical that we have a strong leader at the helm of the DOL. Recent federal investments in the Infrastructure Investment and Jobs Act, CHIPS Act, and Inflation Reduction present the opportunity to create millions of jobs and Ms. Su is uniquely equipped to ensure those jobs are well paying and build an inclusive economy.

As California's Labor Commissioner from 2011 to 2018, Ms. Su tackled wage theft in some of the most exploitative, low-wage industries, engaging in outreach and education to the employer community, overseeing litigation, and forging relationships with under-served communities. Ms. Su has also worked to implement important new worker protection legislation enacted by California's legislature including the country's first statewide paid family and medical leave law, and one of the nation's first \$15 minimum wages. She has held those who exploit the most vulnerable accountable, as first demonstrated by her formative work as the founder of Sweatshop Watch and her receipt of a MacArthur Fellowship to advance the rights of immigrant laborers. Su's state level leadership also means she will effectively foster collaboration between the US DOL and state labor agencies on areas such as enforcement and workforce development programs.

Ms. Su has also been a leader and mentor to her colleagues, including many of us. We can think of no one better qualified than Ms. Su to run the Department of Labor and enforce our nation's wage and hour, occupational safety, unemployment insurance, and family and medical leave laws, among others. The Department of Labor needs her steady and tested leadership.

Ms. Su herself has put it well: "Building the proper government systems, with bridges, making sure they're aligned with companies' and with employees' needs. We need to recover better than we entered. It's not just because it's good for workers, but it is the key to a stronger, more resilient economy." We could not agree more. Ms. Su is the ideal Secretary of Labor to lead the Department as it and the Biden-Harris Administration continue to pursue that vital mission.

We urge the Senate to act swiftly to confirm Ms. Su's nomination.

Sincerely,

***\*All signatories signed this letter in their personal capacity. Institutional and organizational affiliations are for identification purposes only.***

Aaron Fischer, Law Office of Aaron J. Fischer  
Aaron Halegua, Aaron Halegua, PLLC  
Aisa Villarosa, Director of Youth Organizing and Programs, Stop AAPI Hate  
Alan Jenkins, Harvard Law School  
Albert H. Pak  
Aleeza Strubel  
Alex Montgomery, J.D.

Alexa Rosenbloom  
Alexandra Brodsky  
Alison Wheeler  
Allyson Bain  
Almas Sayeed, Liberty Hill Foundation  
Alvaro M. Huerta  
Amanda M Beltz  
Amanda Merkwae  
Ambassador (ret.) Keith M. Harper, Jenner & Block  
Amy Copperman  
Andrea Smith  
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Gabrielle Lessard, National Immigration Law Center  
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Jason Szanyi, Center for Children's Law and Policy  
Javier Maldonado  
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Karen Tumlin, Justice Action Center  
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Kate Frucher, The Clean Fight / New Energy Nexus NY  
Kate Griffith  
Kate O'Malley, K.O. Strategies  
Katherine Greenberg, A Better Balance  
Katherine Wutchiett, Legal Aid at Work  
Kathleen Keller, Bredhoff & Kaiser PLLC  
Kathleen Kim, LMU Loyola Law School  
Kathleen Rubenstein  
Kathryn A. Socha  
Katie Murphy, Attorney / Administrative Law Judge

Katie Whitley  
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Marjorie Thigpen-Carter, Justice Knox  
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Mark Pearce  
Marni von Wilpert, Councilmember, City of San Diego  
Marsha Chien  
Mary E. Anderson  
Mary Giliberti  
Mary N. Strimel  
Mary Vargas, Stein & Vargas, LLP  
Matt Nosanchuk, New York Jewish Agenda

Matt VanWormer  
Matthew Clash-Drexler  
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Meg Barnette ('96)  
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Oscar Lopez  
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Peter Rundlet  
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Priy Sinha ('05)  
Prof. Shirley Lin, Brooklyn Law School  
Professor Keith Cunningham-Parmeter, Willamette University College of Law  
Rachel Brady  
Rachel Rosenberg  
Rachel Smit, Fair Work, P.C.  
Raj Goyle, Former CEO Bodhala, former KS State Representative  
Ramis Wadood  
Ray Brescia, Albany Law School  
Rebecca Livengood, Relman Colfax PLLC  
Rebekah Cook-Mack  
Rey Fuentes  
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Risa Kaufman  
Riyaz Kanji, Kanji & Katzen PLLC  
Robert K. Silverman, Oxfam America  
Robin A. Lenhardt, Georgetown Law Center  
Rosario Lozada  
Rose Carmen Goldberg  
Ryan Downer, Civil Rights Corps  
S. Belway, National Center for Youth Law  
Sabrina Adler, ChangeLab Solutions  
Sam B. Petsonk, Esq.  
Samuel Brandao, Clinical Assistant Professor of Law, Tulane University Law School  
Samuel Santana  
Sara Block  
Sarah Biehl, Ohio Mayors Alliance  
Sarah Brafman, A Better Balance  
Sarah H. Paoletti, University of Pennsylvania Carey Law School  
Sarah Hess  
Sarah Hudson-Plush  
Sarah Stevenson  
Sarah Xiyi Chen  
Sasha Stern  
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Scott A. Marks  
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Scott Welfel  
Sean Riordan  
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Shariful Khan  
Sharion Scott

Sharon Terman, Legal Aid at Work  
Shayla Myers  
Sienna Fontaine, Make the Road New York  
Solangel Verde, Verde Law Firm  
Sophie Bryan  
Spring Miller  
Stacey Violante Cote, Center for Children's Advocacy  
Stacy Villalobos  
Stephanie A. Gonzalez Ferrandez, Esq.  
Stephanie Rudolph, Legal Aid Society  
Stephen Carpenter  
Stephen Cha-Kim  
Steve Tobocman, Former Michigan State Representative  
Steven Choi, Democracy Partners  
Steven J. Gunn  
Sue L. Pak  
Susan Kraham, Earthjustice  
Susan Shin  
Susan Woolley  
Susanna Booth, American Friends Service Committee  
Susannah Baruch  
Suzanne Nossel  
Sydney Tarzwell  
Tamar Alexanian  
Tanya Kessler, Mobilization for Justice, Inc.  
Ted Wang, Unbound Philanthropy  
Terri Gerstein  
Terry Maroney, Vanderbilt Law School  
Tim Silard  
Tom Fritzsche  
Vail Kohnert-Yount  
Veronica McClendon, McClendon Law and Consulting, LLC  
Veryl Pow, Golden Gate University School of Law  
Vicky Selkove  
Vivian Wong  
Wendy Parker, Wake Forest University School of Law  
Wendy Patten  
Wendy Seiden, Chapman University Fowler School of Law  
Will Bloom  
Yanin Senachai  
Yungsuhn Park



April 7, 2023

The Honorable Bernie Sanders  
 Chairman, U.S. Senate Committee on Health,  
 Education, Labor & Pensions  
 332 Dirksen Senate Office Building  
 Washington, D.C. 20510

The Honorable Bill Cassidy  
 Ranking Member, U.S. Senate Committee on  
 Health, Education, Labor & Pensions  
 455 Dirksen Senate Office Building  
 Washington, D.C. 20510

*RE: Small business support for the nomination of Julie Su*

Dear Chairman Sanders and Ranking Member Cassidy:

As a representative of America's 30 million small businesses, Small Business Majority writes today in support of the nomination of Deputy Secretary of Labor Julie Su to serve as the next Secretary of Labor.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. We engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth.

Deputy Secretary Su has been an essential partner for Secretary Walsh in moving the Labor Department forward over the past two years. As part of that work, she has shown a dedication to supporting small businesses and their employees. As the daughter of immigrants who owned a small business, Deputy Secretary Su understands the importance of the small business ecosystem to state and local economies. This understanding has been made apparent during her time at the Department of Labor. She has prioritized issues that benefit small businesses using an inclusive lens, particularly retirement, paid family leave and other benefits that small employers historically struggle to access. Through its Inclusive Capitalism program, the Department effectively and proactively engages with business stakeholders, and in particular, has demonstrated a responsiveness to the needs of small business.

What's more, she served as the de facto Chief Operating Officer for the agency of more than 16,000 federal employees and a budget of over \$14 billion, executing the mission of the Labor Department with respect to workforce and employment issues facing our country. It's clear that she is committed to supporting the goals of the agency, and we know that Su will not only reinforce but advance the Department's already critical work engaging with small businesses to promote quality jobs.

In addition to her current role as Deputy Secretary, Su's experience showcases a distinguished career. She led California's Labor and Workforce Development Agency where we worked closely with her. In 2019, Su co-led the California Future of Work Commission alongside Governor Newsom and a small business owner, recognizing the crucial role businesses play. In this work, like Small Business Majority, Su recognized that benefits and job quality are also small business issues. Her tenure in California has been impactful because she believes in the need for strengthening the safety net to create high quality jobs through pragmatic policy solutions and programs like paid family and medical leave and CalSavers, a retirement savings program for private sector workers. We saw firsthand that she has a passion and commitment to ensuring that small businesses have access to a readied and thriving workforce.

As part of her commitment to a quality business workforce, Su supported Governor Newsom's Paid Family Leave Task Force, to which we were also appointed. The Task Force recommended creating a California Paid Family Leave Small Business Grant and we worked diligently alongside Secretary Su to raise awareness about the program with businesses and business organizations. Through these programs,

small business owners in California are now able to offer a high level of benefits to employees, ensuring they are operating on an equal playing field with larger businesses.

To guarantee small businesses and their employees are truly supported and prioritized, we urge the Committee to confirm Julie Su as the next Secretary of Labor.

Sincerely,

A handwritten signature in black ink that reads "John C. Arensmeyer". The signature is written in a cursive style with a large, sweeping initial "J".

John Arensmeyer  
Founder & CEO  
Small Business Majority

**International Association of Sheet Metal, Air, Rail and Transportation Workers**

1750 New York Avenue  
NW Suite 600  
Washington, DC 20006



April 17, 2023

The Honorable Bernie Sanders  
Chair, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member, Committee on Health, Education, Labor & Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy,

On behalf of the more than 203,000 members of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART), we urge you to confirm the nomination of Julie Su as Secretary of the U.S. Department of Labor.

SMART members are sheet metal workers, service technicians, bus operators, engineers, conductors, sign workers, welders, production employees and more. Our members provide vital services that keep Americans in every corner of this nation working, traveling and living safely – and they need government leaders who will advance their interests, ensure their economic security and protect them from exploitation. Deputy Secretary of Labor Su has demonstrated her commitment to securing justice for workers throughout her long and distinguished career, and we strongly support her nomination.

Su began her career as a human rights lawyer for the Asian Pacific American Legal Center, where, in 1995, she won a case that freed 72 enslaved Thai garment workers in El Monte, California – resulting in more than \$4 million in restitutions. This was the beginning of a career-long crusade against wage theft, a form of worker exploitation particularly impactful for SMART members in the construction industry. As California labor commissioner, Su launched a historic “Wage Theft Is a Crime” campaign, helping inform workers and employers across the state of their rights and the pay they deserve. She also waged a fierce battle against worker misclassification – another common, bad-faith practice in the construction industry – filing lawsuits on behalf of California workers misclassified as independent contractors.

In 2019, as the leader of California’s Future of Work Commission, Su pioneered an initiative to provide a roadmap for workers facing technological advances and policy shifts – ensuring that workers aren’t abandoned in the face of automation, green energy policies and more. And as California’s labor secretary, she explicitly encouraged employers and unions to work together, recognizing that both businesses and

workers succeed when employees have the compensation and respect of a collectively bargained union contract. Su's approach not only protects workers – it helps law-abiding employers as well.

Since her confirmation as Deputy Secretary of Labor, Su has worked alongside Marty Walsh and the Biden administration to pursue policies that put the workers first and create good, family-sustaining union jobs. Under the leadership of Walsh and Su, the Department of Labor officially rescinded the previous administration's Industry-Recognized Apprenticeship Programs (IRAPs) scheme, instead investing the department's resources to support registered apprenticeship programs. This ruling demonstrated Su and this Department of Labor's focus on providing workers and SMART members with the ability to find good, union jobs and reliable pathways to the middle class.

Deputy Secretary Su's decades-long commitment to workers' rights, economic prosperity and justice make her the strongest possible choice to lead the United States Department of Labor. We encourage you to swiftly confirm her nomination.

Sincerely,

The International Association of Sheet Metal, Air, Rail and Transportation Workers

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

**SEAN M. O'BRIEN**  
General President  
25 Louisiana Avenue, NW  
Washington, DC 20001



**FRED E. ZUCKERMAN**  
General Secretary-Treasurer  
202-624-6800  
www.teamster.org

April 13<sup>th</sup>, 2023

**VIA Electronic Transmission**

United States Senate  
Washington, DC 20510

Dear Senator:

On behalf of the 1.2 million members of the International Brotherhood of Teamsters, and in the interest of all working Americans, I am pleased to support the nomination of Julie Su to serve as the next Secretary of the U.S. Department of Labor.

The Secretary of Labor plays a vital role in strengthening the middle class and protecting workers by expanding employment opportunities, maintaining high-quality workplace safety standards, and protecting workers from wage and benefit exploitation. Ms. Su is uniquely qualified to take on this role as the next Secretary based on her years of experience as Secretary for the California Labor and Workforce Development Agency and most recently as Deputy Secretary at the U.S. Department of Labor.

Ms. Su's work in California as the state's top labor advocate protected workers from wage and benefit theft, revamped California's safety standards for workers and administered the nation's first statewide paid family and medical leave program. As the country's Deputy Secretary to the Department of Labor she has continued her fight to improve the jobs and welfare of working people everywhere.

While serving as Deputy Secretary, Ms. Su was instrumental in helping workers access needed unemployment benefits through the implementation of the American Rescue Plan Act; addressing intentional misclassification of workers; improving compensation and labor standards for Federal contract workers and the development of a first-of-its kind worker organizing resource center to help support workers to have their voices heard on the jobsite.

Julie Su has a proven track record for standing up for workers and would make an extremely effective leader as the Department of Labor's next Secretary. The Teamsters urge the Senate to swiftly confirm Deputy Secretary Su to serve as the next Secretary of the U.S. Department of Labor.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean M. O'Brien".

Sean M. O'Brien  
General President





**United Association** of Journeymen and Apprentices of the  
Plumbing and Pipe Fitting Industry of the United States and Canada

Three Park Place • Annapolis, Maryland 21401  
(410) 269-2000 • Fax (410) 267-0262 • <http://www.ua.org>

Mark McManus  
*General President*  
Patrick H. Kellett  
*General Secretary-Treasurer*  
Michael A. Pleasant  
*Assistant General President*

General Office File Reference: GP

April 19, 2023

The Honorable Bernie Sanders  
Chairman  
Senate HELP Committee  
428 Dirksen SOB  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate HELP Committee  
428 Dirksen SOB  
Washington, D.C. 20510

Dear Chairman Sanders and Ranking Member Cassidy,

On behalf of the more than 363,000 hardworking men and women of the United Association of Union Plumbers and Pipefitters (UA), I write in support of the nomination of Deputy Secretary Julie Su to serve as Secretary of Labor. Deputy Secretary Su is a proven champion of working families across the country who has shown a relentless commitment to building consensus and ensuring a level playing field for everyone.

As Deputy Secretary, Julie Su has worked tirelessly to ensure all working families have a fair shot at success. Along with former Secretary Marty Walsh, Deputy Secretary Su sought input from all stakeholders – from industry leaders to apprentices, from small business owners to city council members, and everyone in between – to ensure all policies and funding coming from the Department of Labor put the working men and women of our nation first. Deputy Secretary Su was instrumental in updating our outdated Davis-Bacon rulemaking to ensure workers earn fair wages for an honest day's work, and she balanced input from all parties involved to forge bipartisan and common-sense solutions. I have no doubt that Secretary Su will continue the important progress made during Secretary Walsh's tenure.

The entire United Association stands ready to continue our important work with Secretary Su, the Biden Administration, and your Committee to help working families across the country thrive. The Senate has already confirmed Deputy Secretary Su once; I strongly urge you to confirm her nomination again to lead the U.S. Department of Labor.

Sincerely yours,

Mark McManus  
General President





*Solidarity House*  
8000 EAST JEFFERSON AVE.  
DETROIT, MICHIGAN 48214  
PHONE (313) 926-5000

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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA – UAW

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SHAWN FAIN, *PRESIDENT* • MARGARET MOCK, *SECRETARY-TREASURER*  
VICE-PRESIDENTS: CHUCK BROWNING • MIKE BOOTH • RICH BOYER

April 18, 2023

Dear Senator:

On behalf of the more than one million active and retired members of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), I write to express strong support for confirming Julie Su to serve as Secretary of the Department of Labor (DOL).

As a nation, we find ourselves at a crossroads as the gap between the super wealthy and the average American has reached historic levels. Today, three billionaires own more wealth than 160 million Americans combined. Meanwhile, for decades, wages, benefits, and working conditions have stagnated or deteriorated, making it harder and harder for working Americans to make ends meet.

Acting Secretary Su has a proven track record of success in D.C. and her native state of California. As the Secretary of the California Labor and Workforce Development Agency, she led a staff of over 11,000 and worked tirelessly to secure fairer labor and workplace conditions for California workers. She expanded apprenticeship programs to train workers without college degrees and helped lead Governor Newsom's Future of Work Commission to develop a plan to reduce inequality in the decades to come.

The status quo is unacceptable. Working families need a Secretary of Labor that understands their everyday issues and fights for them. I am convinced Acting Secretary Su is the right person for the job. The daughter of immigrants, her background as a Harvard Law graduate and civil rights lawyer makes her eminently qualified to serve as Secretary of Labor.

Without hesitation, I urge you to vote yes on her nomination to be Secretary of the Department of Labor.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Shawn P. Fain".

Shawn Fain  
President



March 28, 2023

The Honorable Bernie Sanders  
Chairman  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions  
428 Dirksen Senate Office Building  
Washington DC 20510

The Honorable Bill Cassidy  
Ranking Member  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions  
428 Dirksen Senate Office Building  
Washington DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

On behalf of the 1.3 million hardworking members of the United Food and Commercial Workers International Union (UFCW), I write to ask you to confirm Julie Su as the next Secretary of the United States Department of Labor (DOL). Between her time as California Labor Secretary, and in her time serving as the Deputy Secretary of the DOL, there is no candidate more qualified or better equipped to lead the Department in charge of ensuring the welfare, working conditions, and rights of workers.

As the Deputy Secretary, Ms. Su served as the chief operating officer for the DOL, ensuring that the goals and priorities of the Secretary of Labor were executed, all while overseeing the Department's staff and budget. Under Secretary Walsh and Deputy Secretary Su, the DOL has been the most pro-worker in recent memory by engaging workers, unions, and employers in finding solutions that support workers, employers, and the economy.

Prior to her appointment to the DOL, Ms. Su served as Secretary for the California Labor and Workforce Development Agency. Ms. Su oversaw the departments that enforce California labor laws, including minimum wage and occupational safety standards, paid family leave, and unemployment insurance benefits. She was responsible for managing the implementation of workforce training and apprenticeship programs, overseeing public sector contract disputes, protecting injured workers, and combatting wage theft.

The Honorable Bernie Sanders  
The Honorable Bill Cassidy

March 28, 2023

- 2 -

UFCW members would especially benefit from Ms. Su's confirmation to the DOL. The hardworking men and women of UFCW are the very class of workers that benefit from a strong and diligent DOL. When safety standards are enforced, organizing rights protected, and benefit programs funded our members are empowered in their jobs and in their communities.

As we continue to emerge from the pandemic and face new economic challenges, now is the time to acknowledge and reinforce the role government can play in protecting workers' rights. Julie Su is the right person for the Department of Labor and the UFCW is proud to give her our most sincere endorsement. If we can be of any assistance to you as you consider this issue, please feel free to contact us.

Sincerely,



International President

## United Mine Workers of America

CECIL E. ROBERTS  
INTERNATIONAL PRESIDENT



TELEPHONE  
(703) 291-2420

UNITED MINE WORKERS' HEADQUARTERS  
18354 QUANTICO GATEWAY DRIVE, SUITE 200

**Triangle, VA**

22172-1779

April 14, 2023

The Honorable Chuck Schumer  
Majority Leader  
United States Senate  
Washington, DC

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC

Dear Leaders Schumer and McConnell:

The resignation of former Secretary of Labor Marty Walsh has left a huge void in our nation's ability to protect and uplift workers on the job at a critical time. Workplace fatalities are up to an unimaginable 5,000+ per year. More workers than we have seen in decades are seeking a voice in their workplace and the protections of a union contract.

It is imperative that the Labor Department has a strong and experienced leader, one who will fulfill the President's vision for what the Labor Department should be doing on behalf of workers. His appointment of Julie Su more than meets those criteria.

As Deputy Secretary, Ms. Su worked closely with Secretary Walsh to make the Department of Labor more accessible to workers and employers. She worked with mine operators and the Mine Safety and Health Administration to improve accessibility at the mine to training and safety information for mine workers.

I have personally had several conversations with Acting Secretary Su about worker safety and health and other issues and found her to be straightforward, very knowledgeable and a passionate advocate for workers and their families. President Biden has made the right choice for Secretary of Labor, and I strongly recommend a vote in favor of her nomination by the full Senate.

Sincerely,

Handwritten signature of Cecil E. Roberts in black ink.

Cecil E. Roberts

cc: All U.S. Senators



**UNITED FARM WORKERS**

29700 Woodford-Tehachapi Rd. • P.O. Box 62 • Keene, CA 93531  
Telephone: (661) 823-6105 • Fax: (661) 823-6174  
email: [execoffice@ufw.org](mailto:execoffice@ufw.org) • [www.ufw.org](http://www.ufw.org)

April 18, 2023

The Honorable Bernie Sanders  
Chair  
Senate Committee on Health, Education,  
Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate Committee on Health, Education,  
Labor & Pensions  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

**RE: Nomination of Julie Sue to serve as Secretary of the U.S. Department of Labor**

Dear Chair Sanders,

We write to express our strong support for the confirmation of Julie Su to serve as the next Secretary of the U.S. Department of Labor.

The United Farm Workers (UFW) is the United States' first enduring and largest farm workers' union. The UFW as a labor organization represents year round, migrant, and seasonal farm workers in various agricultural occupations. Through collective bargaining, worker education, state and federal legislation, and public campaigns, the UFW seeks to improve the lives, wages, and working conditions of agricultural workers and their families.

Few nominees in U.S. history have been as qualified to become Secretary of Labor as Julie Su. As Deputy Secretary, Su is already overseeing the agency's 16,000 federal employees and a budget of over \$14 billion. Prior to becoming U.S. Deputy Secretary of Labor, Su lead the largest state labor agency in the United States.

Su has shown a lifelong commitment to upholding worker's rights as well as working with employers to keep our economy strong and working for everyone. She consistently insists on all those impacted having a seat at the table. Farm workers have experienced Su bringing both farmers and farm workers into thoughtful conversation about what is best for all of agriculture.

We strongly urge the HELP Committee to advance Julie Su's nomination confirmation to serve as Secretary of the U.S. Department of Labor. Please do not hesitate to contact me or the United Farm Workers Political/Legislative Director Areli Arteaga, [arteaga@ufw.org](mailto:arteaga@ufw.org), should you have any questions for us.

Sincerely,  


Teresa Romero  
President



Thomas M. Conway  
International President

April 17, 2023

**Via Email**

United States Senate  
Washington, D.C. 20515

**RE: United Steelworkers supports confirmation of Julie Su for Secretary of Labor.**

Dear Senator:

On behalf of the 850,000 members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), I write in strong support for the nomination of Julie Su to serve as the Secretary of Labor.

Deputy Secretary Su has spent decades of her career fighting to strengthen workers' voices and their rights. Prior to her July 2021 appointment as Deputy Secretary of Labor, Ms. Su served as both California Labor Commissioner and Secretary of the California Labor and Workforce Development Agency. In this capacity, she enforced state labor law, combatted wage theft, protected workers from retaliation, and ensured worker safety and health. Given her excellent track record promoting the welfare and rights of workers, we believe in Deputy Secretary Su's ability to lead the Department of Labor (DOL) during this time of ongoing economic recovery.

Throughout the last two years of Ms. Su's tenure as Deputy Secretary of Labor, she has helped lead the Department's strategies to empower workers, such as the Yes, WIOA Can! Campaign and the Secretary's Good Jobs Initiative. The Workforce Innovation and Opportunity Act (WIOA) provides annual funding to help job seekers access training and support to find employment. The campaign itself aims to clarify how WIOA funds can be leveraged by state and local governments, workforce boards, unions, employers, and community-based organizations to promote innovation, equity, and job quality, and to actualize the Biden Administration's infrastructure implementation plan.<sup>1</sup>

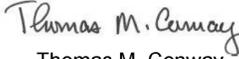
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<sup>1</sup> [Forbes](#), "Biden's Labor Department Launches WIOA Campaign to Promote Job Quality and Equity", October 27, 2022.

The Good Jobs Initiative is aimed at ensuring that the trillions of dollars in funding for infrastructure investments results in quality jobs that can be accessed equitably and will provide life-long economic security. As part of this initiative, the Departments of Labor and Transportation partnered with the International Brotherhood of Teamsters, and Deputy Secretary Su has led the online discussions aimed at improving labor standards and implementing better employment practices to ensure that these workers receive family-sustaining wages and benefits.<sup>2</sup> Deputy Secretary Su's work on these campaigns has inspired our union's confidence that the Department of Labor would be able to carry out its mission fully and effectively under her leadership and guidance.

Given Deputy Secretary Su's extensive labor background and her current work at the DOL, we believe that she will protect and enforce the rights of job seekers, wage earners, and retirees across the country. We strongly urge you to confirm Julie Su as the new Secretary of Labor.

Sincerely,

  
Thomas M. Conway  
International President

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<sup>2</sup> [U.S. Department of Labor](#), "Readout: Deputy Secretary Su, Teamsters Union Discuss Driving Good Jobs Initiative, Better Conditions for Workers", March 3, 2022.

April 19, 2023

The Honorable Bernie Sanders  
Chair  
Committee on Health, Education, Labor &  
Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education, Labor &  
Pensions  
United States Senate  
428 Senate Dirksen Office Building  
Washington, DC 20510

**Re: Women's Community Letter of Support for Julie A. Su as Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of the 56 undersigned organizations committed to advancing women's equality and economic security, we write to express our strong support for Julie A. Su as Secretary of Labor.

The Secretary of Labor is the nation's most senior official tasked with ensuring the well-being and rights of working people and advancing their employment opportunities. In this position, Ms. Su would direct the Department of Labor's (DOL's) interpretation and enforcement of a number of laws vital to women's economic security and right to be free from workplace discrimination, such as the Fair Labor Standards Act; the Occupational Safety and Health Act; the Family and Medical Leave Act; the Affordable Care Act's requirement of break time for nursing mothers; the executive orders prohibiting sex discrimination and other forms of discrimination by federal contractors; and a range of executive orders setting labor standards for federal contractors' employees, including on minimum wage and a right to earn paid sick days, in addition to overseeing a range of workforce training initiatives. These policies are essential to closing the gender wage gap: they remove barriers to women's employment opportunities, including sex discrimination; raise women's wages; allow women to meet caregiving responsibilities without sacrificing their employment; and ensure women's health and safety so they can continue to support their families.

The most recent jobs data show that for the first time since the start of the COVID-19 pandemic, the number of women in the labor force exceeds pre-pandemic numbers. However, the overall unemployment rate masks higher rates for Black and Latina women, disabled women, and other groups. As the economy continues to recover, it is vital that the Department of Labor ensures all workers have access to high quality jobs that provide good wages, fair pay, employer-sponsored benefits, opportunities for advancement, safety on the job, and freedom from discrimination.

**Women and their families deserve a Secretary of Labor who is committed to advancing the rights of women workers and to the robust enforcement of the laws that protect them. Ms. Su is such a leader.**

As Deputy Secretary, Ms. Su worked closely with Secretary Walsh to oversee the work of the Department across a wide range of programs designed to improve the jobs and welfare of working people in this country. Ms. Su helped advance new DOL programs under the American Rescue Plan, which invested millions of dollars to help strengthen and expand the U.S. workforce; these programs have helped workers access unemployment insurance benefits, improved workplace safety protections under the Occupational Safety and Health Administration, and created innovative workforce training and apprenticeship initiatives. Ms. Su also played a vital role in the creation and implementation of

President Biden's Good Jobs Initiative. Under her leadership, this pathbreaking initiative has helped improve job standards in government contracting and grant making—including higher wages, paid leave, registered apprenticeships, and pre-apprenticeships that open up opportunities for women, people of color, and underserved communities.

Under Ms. Su's leadership, the Department has taken steps to increase wages for workers. In 2021, the Department issued a final rule to implement President Biden's Executive Order 14026, raising wages for federal contractors to \$15 per hour. Women's overrepresentation in low-paid jobs—including federally contracted jobs—is one factor driving the persistent gender wage gap, and raising the minimum wage shrinks that gap and helps lift women and their families out of poverty. The Department also strengthened protections for tipped workers that had been weakened during the Trump administration, ensuring that employers will be required to pay a full minimum wage to workers when they are not engaged in tip-producing work. Tipped workers are about two-thirds women and disproportionately women of color—and improving wages and workplace protections for tipped workers is a crucial step toward equality, dignity, and safety for women at work.

Ms. Su has also been a leader in the Department's efforts to support labor unions across the country. The DOL recently launched the Worker Organizing Resource and Knowledge Center, the federal government's first online resource center providing information about labor unions and their importance to workers and communities. Union membership is especially important for women workers. Belonging to a union raises wages for all workers, but women particularly benefit: women in unions are consistently paid wages that are not just higher, but also more equal to men's wages. While our nation's labor laws remain in need of updating, the leadership of Ms. Su at DOL will help to level the playing field for workers seeking to unionize to build better workplaces for all.

In 2022 under Deputy Secretary Su, the Department also proposed a rule to revise and clarify the test for independent contractor status under the Fair Labor Standards Act (FLSA). The rule would better ensure that the protections of the FLSA are available to all those whom the law is meant to protect. It is no coincidence that misclassification is rampant in low-paid, labor-intensive industries, including not only app-dispatched work but also fields like home care and housekeeping where women, and particularly women of color, are overrepresented. Reducing misclassification helps working women assert their rights under the FLSA, including minimum wages and overtime pay, employer obligations to accommodate breastfeeding workers, and protections against pay discrimination.

Prior to her work as Deputy Secretary, Ms. Su dedicated her career to fighting for the rights of women workers, first as a groundbreaking civil rights attorney and then as the Secretary of the California Labor and Workforce Development Agency. Her career demonstrates her deep understanding of the role that gender and race play in employers' exploitation of low-paid workers. For her tireless advocacy in the field of workers' and civil rights, Ms. Su won a MacArthur "genius" grant when she was just 32 years old.

As a civil rights attorney with Asian Americans Advancing Justice-Los Angeles Ms. Su represented women workers across low-paid industries, challenging extreme and dehumanizing labor conditions. In this role, Ms. Su represented more than 70 Thai workers who had been trafficked to the United States and kept inside a two-story apartment complex ringed with barbed wire, forced to work 18-hour days, and paid less than a dollar per hour to produce clothing. Ms. Su sued on behalf of these workers, as well as Latina garment workers working for the same company, and won, ultimately establishing new

precedent to hold abusive employers accountable and winning more than \$4 million in back pay for the workers.

While serving as a California Labor Commissioner, Ms. Su worked to combat wage theft, promote pay equity, and administered the nation's first statewide paid family and medical leave program. Ms. Su is deeply knowledgeable about what is needed to create safe and healthy workplaces for all workers, and especially low-paid women workers.

Julie Su is a dedicated public servant that has a proven track record as a thoughtful and committed leader for working people. We offer strong support for the nomination of Julie Su as Secretary of Labor and urge a vote to advance her nomination to the Senate floor.

Sincerely,

National Women's Law Center  
9to5  
A Better Balance  
All\* Above All Action Fund  
American Association of University Women  
Americans for Democratic Action (ADA)  
Asian Pacific American Labor Alliance, AFL-CIO  
Asset Building Strategies  
Association of Flight Attendants-CWA  
Center for Law and Social Policy (CLASP)  
Center for Parental Leave Leadership  
Center for WorkLife Law  
Chicago Foundation for Women  
Citizen Action of New York  
Communications Workers of America (CWA)  
Connecticut Women's Education and Legal Fund (CWEALF)  
Empowering Pacific Islander Communities (EPIC)  
Equal Rights Advocates  
ERA Coalition  
Family Values @ Work  
Family Values@Work Action  
Futures Without Violence  
Institute for Women's Policy Research  
Just Solutions  
Justice for Migrant Women  
Kansas Breastfeeding Coalition  
Legal Aid at Work  
MomsRising  
NARAL Pro-Choice America  
National Black Worker Center  
National Center for Law and Economic Justice  
National Council of Jewish Women  
National Disability Rights Network (NDRN)

National Education Association  
National Employment Law Project  
National Latina Institute for Reproductive Justice  
National Organization for Women  
National Partnership for Women & Families  
National Skills Coalition  
National Taskforce on Tradeswomen Issues  
National Urban League  
National Women's Political Caucus  
Oxfam America  
Paid Leave for All  
Public Advocacy for Kids (PAK)  
ROC United  
SaverLife  
Service Employees International Union (SEIU)  
Sexual Violence Prevention Association (SVPA)  
Sugar Law Center for Economic & Social Justice  
UnidosUS  
United for Respect  
USOW  
Women Employed  
Women's Funding Network  
Women's Law Project

*Wind of the Spirit*  
Immigrant Resource Center



*Viento del Espiritu*  
Centro de Recursos para Inmigrantes

April 19, 2023

**To Whom It May Concern**

We believe that **Julie Su** is the most qualified candidate to be Secretary of Labor and best choice to advance President Biden's agenda for an inclusive economy. She is ready to lead on day one because she was a key partner for Secretary Walsh and deeply involved in every major initiative. Su represents the best of America. She is the daughter of Chinese immigrants who came on a cargo ship because they couldn't afford a passenger ticket. Together, they built a small laundromat and pizza delivery business, and raised a daughter who became a leading workers' rights advocate and civil rights leader. Su knows that good jobs are essential both for economic security for workers and their families, and for businesses to succeed. She will bring this knowledge and experience to her tenure as Secretary of Labor.

**As Deputy Secretary, Su has worked hand-in-hand with Secretary Walsh to lead the DOL. Together, they led key initiatives at the Department of Labor for nearly two years to deliver on the President's promise of an economy built from the bottom up and middle out.**

- The U.S. economy has added a record 12.4 million jobs since the President took office and the unemployment rate has been below 4 percent for more than a year. The unemployment rate for Black workers is at an historic low 5%.
- The Bipartisan Infrastructure Law, CHIPS Act, and Inflation Reduction Act are creating investments in new factories and construction in communities across America and Su has been instrumental to DOL's leadership in making sure these jobs are good jobs and widely available to workers across the country.

**Secretary Walsh and Acting Secretary Su have led a resurgence in workforce training to ensure that people across the nation have the skills and training they need to access good paying jobs. Su and Walsh worked side-by side to:**

- Expand apprenticeships in in-demand industries including trucking, teaching, and cybersecurity
- Invest over \$80 million in growing our nursing workforce
- Make over \$80 million available to regions to develop sector strategies to meet emerging workforce needs impacted by federal investments in BIL, CHIPS and IRA
- Expand pre-apprenticeship, helping ensure that all workers have on-ramps to valuable apprenticeship opportunities
- Create a national Youth Employment Works Strategy

*Wind of the Spirit*  
Immigrant Resource Center



*Viento del Espiritu*  
Centro de Recursos para Inmigrantes

**Julie Su approaches her work with fidelity to the law, the legal system, and the limits put in place by Congress and the courts.**

- Her approach is reflected in DOL’s restrained Independent Contractor proposed rule which states explicitly and absolutely that DOL does not have the authority to implement an ABC Test under the existing law.
- Nor does proposed rule does not have anything resembling an “ABC Test” in it, which puts the burden of proof on the employer to prove that a worker is an employee.
- Indeed, the International Franchise Association press release on the proposed rule stated, “we are appreciative that the proposal recognizes that the ABC test does not apply to the Fair Labor Standards Act (FLSA).”
- Their subsequent efforts to claim that if confirmed, Su will turn all gig workers into employees is particularly specious in light of their explicit recognition that DOL has admitted that it does not have the authority to implement an ABC Test.

**Concerns about a potential impact on the franchise business model are misplaced.**

- Su’s parents were franchisees who had a pizza restaurant. She understands the importance of the franchise business model to helping people start their own small businesses.
- The proposed rule about independent contractors does not interfere with the franchise business model.
- Joint employment is a separate issue from worker classification. In July of 2021, DOL rescinded the Trump-era joint employer rule -- which had been enjoined by a federal district court in NY.
- Further action on joint employment is not on the DOL’s regulatory agenda.
- The National Labor Relations Board’s proposed rule on joint employment and the PRO Act’s joint employer provision would both be enforced by the National Labor Relations Board—not by the Department of Labor.

**Julie Su has led national and state efforts to prevent and remedy unemployment fraud.**

- Su believes strongly in rooting out waste, fraud, and abuse in our unemployment system.
- We now know that as millions of Americans applied for help during the pandemic, international and national criminal rings geared up to use sophisticated methods of identity theft and information available on the dark web due to large private data breaches in recent years to steal benefits across the states.
- Under Su’s leadership, the California UI agency put new systems in place to new systems to prevent and remedy fraud and abuse of our unemployment system. California’s fraud checks stopped between \$60 - \$125 billion in fraudulent payments. These new systems have become models for other states as well.

*Wind of the Spirit*  
Immigrant Resource Center



*Viento del Espiritu*  
Centro de Recursos para Inmigrantes

- California processed one of every five unemployment claims in the country in 2020, which exceeded the volume and payout of any other states, including Texas and New York combined. Thus, the volume of its fraudulent payments was high, but in range with the same percentages of UI funds stolen by criminal enterprises in most states. Indeed, between July 2020 and June 2021, California's fraud rate was lower than the fraud rate in Kansas, Rhode Island, Nevada, New York, Tennessee, Arizona, South Carolina, Massachusetts, Alabama, and Puerto Rico.
- At DOL, Su has led the provision of significant assistance to states in preventing, detecting, and recovering funds from fraud. DOL is using ARPA funds to provide states with resources for technological, operational, and administrative modernization to help states fraud-proof their unemployment insurance systems.

**Julie Su believes in the value of engaging with the regulated community.**

- As Secretary of the California Labor and Workforce Development Agency, Su worked with Chambers of Commerce, industry associations, employers, educational institutions, and unions to launch new public/private apprenticeship programs to create good paying jobs for historically marginalized communities and meet employer needs.
- While in Mexico City to meet about implementation of the USMCA, she met with the Mexican equivalent of the Chamber of Commerce to discuss their views.
- She has had MSHA provide training and safety information that mine operators want access to in order to use those resources themselves at their workplaces.
- She allowed WHD to resume issuing opinion letters, which businesses feel are very valuable to them in understanding the law and having certainty.
- The Society for Human Resource Management (SHRM) has endorsed Su's nomination to be Secretary of Labor.
- Su has led efforts at DOL to expand and enhance compliance assistance programs for employers.

Sincerely,

*Diana Y. Lopez*

Co-Director  
Wind of the Spirit, Immigrant Resource Center, NJ

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INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,  
WASHINGTON DC.  
April 11, 2023,

Hon. BERNIE SANDERS, *Chairman*,  
Hon. BILL CASSIDY, *Ranking Member*,  
*U.S. Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC*.

Re: JuHe Su nomination as U.S. Secretary of Labor

DEAR CHAIRMAN SANDERS and RANKING MEMBER CASSIDY:

On behalf of the more than 775,000 active and retired members of the International Brotherhood of Electrical Workers (IBEW), I write in support of the nomination of U.S. Deputy Secretary of Labor Julie Su as the next U.S. Secretary of Labor. She is a nationally recognized expert on workers' rights who is already overseeing the Department of Labor's workforce, managing its budget and executing the priorities of the administration. Supremely qualified from years administering labor policy in Washington and as California labor commissioner, Su is a highly accomplished successor to departing Secretary Marty Walsh.

Ms. Su has dedicated her distinguished legal career to advancing justice on behalf of workers, implementing key administration policies on workers' rights, including modernizing prevailing wage laws under the Davis-Bacon Act. At the Labor Department, she also helped improve access to good jobs through the Good Jobs Initiative and is ensuring that the jobs created in critical sectors like semiconductor manufacturing and broadband are good-paying, stable and accessible to all.

Before coming to the Labor Department, she served as secretary for the California Labor and Workforce Development Agency and as state labor commissioner, where she enforced strong on-the-job health and safety protections and cracked down on wage theft.

A champion for workers and experienced litigator, Ms. Su has served as a trusted partner to Secretary Walsh and can be relied upon to continue the Biden-Harris administration's vision of a strong, resilient, inclusive economy with worker well-being at its center. Julie Su played a key leadership role in the Department of Labor over the past 2 years, demonstrating the power of collective bargaining and the importance of labor-management collaboration to build the top-notch workforce that employers and our economy need.

The citizens of the United States will be well served by such a talented, effective advocate in the role of Labor Secretary, and I ask that her confirmation is swiftly moved forward.

Sincerely yours,

KENNETH W. COOPER,  
INTERNATIONAL PRESIDENT

**“EDD” by Nuke Bizzle, ft. Fat Wizza (Source: Spotify)**

Shadow

(Shesh made this straight quick, [EXPLETIVE])

You know 2020 down believable, EDD

Shadow

I just been swipin' for EDD (shadow)

Go to the bank, get a stack at least (no way)

This [EXPLETIVE] here better than sellin' Ps

I made some racks that I couldn't believe

Ten cards, that's 200, boom

I gotta shoutout to Donald Trump

I just might swipe me a lump sum

I'm in Dior havin' money fun

I done got rich off of EDD (I got rich off of EDD)

Ain't hit no more licks 'cause of EDD (ain't no more licks)

And just last night, I was sellin' Ps (last night, I was sellin' Ps)

And I just woke up to 300 Gs (I just woke up)

Stole 60k off an SBA (stole)

It's time to ball like the NBA (it's time to ball)

Ten cards, I'm swipin' 10k a day (I'm swipin', I'm swipin')

Countin' up bills like a CPA (bills, CPA)

You gotta sell cocaine, I can just file a claim

Racks comin' straight to the bank

I'm doin' [EXPLETIVE] that you can't

[EXPLETIVE], I'm smart and you ain't  
EDD scams that somethin' you heard about (heard about)  
I be so happy it's certified (happy)  
Get on the laptop, I'm workin' now (workin' now)  
Did 25 claims in four hours (four hours)  
Shit changed my life, and I gotta admit it (gotta admit it)  
More money I swear I done had in a minute (had in a minute)  
You mean to tell me I can just wait on an email  
And get certified for a 20? (Brrt)  
Damn, this [EXPLETIVE] here, better than dealin' (better than dealin'), yeah  
Turned me to a scammer, quickly (scammer, quickly), yeah  
I was just stuck in a cell (woo-woo)  
Now I sit back and wait on urgent mail  
I just been swipin' for EDD (shadow)  
Go to the bank, get a stack at least (no way)  
This [EXPLETIVE] here better than sellin' Ps  
I made some racks that I couldn't believe  
Ten cards, that's 200, boom  
I gotta shoutout to Donald Trump  
I just might swipe me a lump sum  
I'm in Dior havin' money fun  
I done got rich off of EDD (I got rich off of EDD)  
Ain't hit no more licks 'cause of EDD (ain't hit no more licks)  
And just last night, I was sellin' Ps (last night, I was sellin' Ps)

And I just woke up to 300 Gs (I just woke up)  
Stole 60k off an SBA (stole)  
It's time to ball like the NBA (it's time to ball)  
10 cards, I'm swipin' 10k a day (I'm swipin', I'm swipin')  
Countin' up bills like a CPA (countin' up bills, CPA)  
I just seen 30 cards land in one day (yeah)  
Got straight on the phone and activate (activate)  
Call BoA, they say I got a date (I got a date)  
It's 12 o'clock, gotta go swipe today (go racks)  
If you got the name and number  
I got the addy, we can put somethin' together  
I got the Ally in cash, and you knew for sure  
Run up the hit a lil' better  
Baby Dior or Off-White, head to my feet, had to Amiri my jeans  
FN with the blue tip bullets (brrrt), and that [EXPLETIVE] come with a beam  
Unemployment so sweet (sweet), we had 1.5 land this week  
Getting that land transaction was me (was me)  
I'm tryna swipe that [EXPLETIVE] up 'til it freeze  
I just been swipin' for EDD (shadow)  
Go to the bank, get a stack at least (EDD)  
This [EXPLETIVE] here better than sellin' Ps  
I made some racks that I couldn't believe  
Ten cards, that's 200, boom  
I gotta shoutout to Donald Trump

I just might swipe me a lump sum  
I'm in Dior havin' money fun  
I done got rich off of EDD (I got rich off of EDD)  
Ain't hit no more licks 'cause of EDD (ain't no more licks)  
And just last night, I was sellin' Ps (last night, I was sellin' Ps)  
And I just woke up to 300 Gs (I just woke up)  
Stole 60k off an SBA (go) (SBA)  
It's time to ball like the NBA (it's time to ball)  
10 cards, I'm swipin' 10k a day (I'm swipin', I'm swipin')  
Countin' up bills like a CPA (yeah, CPA)



## NRF Statement on Disruption of West Coast Port Operations

For immediate release April 7, 2023 [press@nrf.com](mailto:press@nrf.com) (855) NRF-PRESS  
Danielle Inman, Senior Director, Media Relations 855-NRF-PRESS,

“Retailers throughout the country depend on U.S. ports to support their daily business needs. The West Coast ports, especially those in Los Angeles and Long Beach, are a pivotal entry point to the United States that allow American consumers access to global products and essential goods.”

NRF Senior Vice President David French

WASHINGTON – The National Retail Federation today issued the following statement from Senior Vice President of Government Relations David French following the decision of the International Longshore and Warehouse Union to withhold labor at the Ports of Los Angeles and Long Beach. These actions have resulted in the overnight closure of all terminals, which have extended into today.

“Retailers throughout the country depend on U.S. ports to support their daily business needs. The West Coast ports, especially those in Los Angeles and Long Beach, are a pivotal entry point to the United States that allow American consumers access to global products and essential goods.

“NRF is closely monitoring the situation in California and has reiterated its concerns to the White House. It is essential that the ongoing labor negotiations between the International Longshore and Warehouse Union and the Pacific Maritime Association are resolved immediately. We again call on the administration to engage and prevent any further disruption to port operations and cargo fluidity.”

Last month, NRF led a group of 238 state, local and federal trade associations in a [letter](#) to President Joe Biden calling on the administration to provide support to help the negotiating parties quickly reach a new agreement.

### About NRF

The National Retail Federation, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail succeed. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs — 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.



**ILWU LOCAL 13 CONTINUES DISRUPTIVE ACTIONS  
AT TERMINALS AT PORTS OF LOS ANGELES AND LONG BEACH**

**April 13, 2023**

ILWU Local 13, the union's largest local on the West Coast, has continued to disrupt operations at the Ports of Los Angeles and Long Beach, the nation's largest port complex. While the union is using new tactics, the result is the same: the disruption of terminal operations.

Last week, ILWU Local 13 withheld labor that shut down terminals throughout the Ports of Los Angeles and Long Beach. This week, the Union has unilaterally delayed the standard dispatch process, which is jointly administered by PMA and the ILWU, and refused to allow PMA's participation in the labor dispatch process. These actions have slowed the start of operations throughout the Southern California port complex. In addition, the Union has forced crucial cargo handling equipment to be taken out of operation at several key terminals.

Together, these illegal work actions have disrupted activities at some of the largest and most active terminals in the United States, which play a critical role in the movement of cargo to and from markets throughout the nation.

This latest work action comes about a month after ILWU Local 13 in Southern California stopped complying with a contract provision providing employers the right to assign staggered shifts during meal periods so cargo can continue to be received and delivered without interruption.

The Union's coordinated actions are occurring while negotiations for a new coastwise contract continue. Those negotiations began in May of 2022. The contract expired on July 1, 2022.

As has been pointed out for years, any actions that undermine confidence in West Coast ports threaten to further accelerate the diversion of discretionary cargo to Atlantic and Gulf Coast ports. Cargo diversion places quality jobs at risk far beyond the docks, including truck drivers, warehouse workers, and thousands of others whose livelihoods depend on ongoing operations at the port.

# # #



BUSINESS

## Southern California ports reopen. Shutdown highlights high-stakes contract talks



A tugboat is the only thing moving in an idle Port of Los Angeles Harbor in San Pedro on Friday. The twin ports of Los Angeles and Long Beach were closed beginning Thursday because of a manpower shortage that may have been exacerbated by drawn-out labor talks. Southern California dockworkers returned to work Friday night. (Genaro Molina/Los Angeles Times)

BY MARISA GERBER, RONALD D. WHITE

APRIL 7, 2023 UPDATED 8:53 PM PT

Southern California dockworkers returned to the job Friday night, ending an approximately 24-hour shutdown at the Los Angeles and Long Beach ports — a crucial

entry point for imports arriving from Asia.

The temporary closure has exacerbated fears about a logistics infrastructure that has never fully recalibrated since the COVID-19 pandemic delays and has shone a stark, national spotlight on the high-stakes labor negotiations playing out at the ports.

The union that represents West Coast dockworkers and the industry group representing maritime shippers are several months into [negotiating a new contract](#), which is focused, in part, on wages and [the role of automation](#). The old contract, covering more than 22,000 workers at 29 ports, expired July 1.

The Pacific Maritime Assn., the industry group representing shippers at the negotiating table, on Friday night [listed most terminals](#) at the twin ports as working compared with previous dispatch summaries that indicated most terminals were idle Thursday night and most of Friday.

The shippers group [said in a statement early Friday](#) that the International Longshore and Warehouse Union had taken a “concerted action to withhold labor.”

“A majority of the jobs for last night’s shift went unfilled, including all jobs for cargo-handling equipment operators needed to load and unload cargo,” the statement read. “The workers who did show up were released because there was not a full complement of ILWU members to operate the terminals.”

But ILWU Local 13 [said in a statement](#) Friday afternoon that its members “are still hard at work and remain committed to moving the nation’s cargo.” The worker shortfall occurred because several thousand members had attended a monthly meeting Thursday evening and were then observing the Good Friday holiday, as allowed under the contract.

Although both sides have remained largely quiet about the status of the contract negotiations — appearing to adhere to an agreement laid out in a [joint statement in February](#) not to discuss the collective bargaining process in the media — the latest development underscored their significance.



BUSINESS

**Southern California ports are losing to East Coast rivals, threatening L.A.-area jobs**Dec. 16, 2022

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“This is quite clearly a wake-up call to the ports’ operators,” said Harley Shaiken, a professor emeritus at UC Berkeley who specializes in labor issues. “This process hasn’t just been slow, it’s been inching along with very high stakes in the balance.”

ADVERTISEMENT

Because their members can shut down ports all along the West Coast, Shaiken said, the longshore union has unequalled power.

“This has already caught the nation’s attention,” he said, “and should add a sense of urgency to the negotiations.”



Longshoreman Alexander Martinez, center, coaches his son Troy, left, and godson Gideon Scotti, 11, against a backdrop of idle cranes at the Eastview Little League baseball field in San Pedro on Friday. Martinez would normally be working but had time on his hands to coach his family. (Genaro Molina/Los Angeles Times)

The L.A. and [Long Beach ports](#) together handle nearly 40% of U.S. imports from Asia, which arrive in giant metal containers aboard vessels that stretch to nearly the length of the Empire State Building. But goods movement has fallen sharply in recent months, allowing the combined ports of New York and New Jersey to intermittently grab No. 1 bragging rights away from [Los Angeles](#).

The [local downward trend](#) is worrisome not just to officials at the twin ports but also for 175,000 Southern California workers — employed at the harbors themselves as well as in related businesses — moving freight valued at \$469 billion a year, port data show. At stake are jobs all along the supply chain, including truckers, warehouse workers and people employed by logistics specialists.

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BUSINESS

**Workers want raises. Shippers want robots. The supply chain hinges on reaching a deal**

June 5, 2022

“It’s important that things return to normal as quickly as possible,” said [Jock O’Connell](#), an international trade economist, who noted that local ports have [lost considerable business](#) to their rivals on the East and Gulf coasts. U.S. retailers and manufacturers redirected cargo following a huge backlog in San Pedro Bay that began in 2020, taking advantage of significant investments by competing ports looking to grab shipping business away from Southern California.

“It’s likely that some of that business will never come back,” said O’Connell, who works for Beacon Economics. The current stoppage, he added, will create a ripple effect, affecting a myriad of jobs and industries tangentially tied to the movement of cargo through the region.

The “economic impact of this shutdown will be felt,” he said.

There is a precedent of contentious, drawn-out labor disputes translating not only into temporarily rerouted business, but also into more permanent changes, according to James Sterns, an associate professor in the Department of Applied Economics at Oregon State University.

In 2016, for example, rancorous labor disputes at the Port of Portland eventually resulted in both of the port’s container terminal operators leaving the port for good.

In a statement Friday, Port of Los Angeles officials said they were talking with both the union and the Pacific Maritime Assn., as well as local, state and federal officials, about returning to normal operations.

“Resuming cargo operations at America’s busiest port complex is critical,” the statement read, “to maintaining confidence to our customers and supply chain stakeholders.”

The National Retail Federation also released a statement Friday saying the retailer trade group had expressed concerns about the closure to the White House and urged administration officials to step in to prevent further disruptions.

Last month, the federation — along with dozens of other associations — [sent a letter](#) to President Biden, asking his administration to offer mediation services to both negotiating parties and to do everything in his power to ensure that an agreement was reached as soon as possible.

The economic importance of the Los Angeles and Long Beach ports is large enough that U.S. presidents have previously interceded to get cargo moving again.

In 2002, President Bush stepped into an 11-day shutdown of 29 West Coast ports to halt an employers’ lockout of West Coast longshoremen. In 2021, ahead of the holiday crush of cargo traffic, [Biden helped broker](#) a plan to expand working hours at the local ports, hoping to alleviate bottlenecks that grew increasingly severe amid pandemic logjams.

The president, O’Connell said, is likely monitoring the current stoppage as well.

“A Democratic president does not like problems like this,” he said. “It’s a labor issue and President Biden is going to try to ensure that this does not get out of hand.”

**MORE TO READ**

**Shift in China-U.S. trade is hurting California, helping Texas**

March 7, 2024



**The Inland Empire's once-unstoppable warehousing industry falls into a slump**

Feb. 21, 2024



**Cargo traffic jumped at L.A. and Long Beach ports in January, rebounding from labor troubles**

Feb. 14, 2024



Marisa Gerber

Marisa Gerber is an enterprise reporter at the Los Angeles Times. A finalist for the Livingston Award, she joined The Times in 2012.



Ronald D. White

Ronald D. White was a reporter for the Los Angeles Times from 1993 to 2024. His work on the Business desk included leadership profiles, innovations in manufacturing, retail and business trends. White did stints as a reporter for the Norfolk Virginian-Pilot and as a reporter and then as a staff writer, assistant editor and editorial writer for the Washington Post before joining The Times.

March 24, 2023

Hon. JOSEPH R. BIDEN, *President,*  
*The White House,*  
*1600 Pennsylvania Ave NW Washington, DC.*

DEAR PRESIDENT BIDEN:

On behalf of the undersigned organizations, and the millions of businesses and employees we represent, we are writing to you once again regarding the ongoing West Coast port labor negotiations between the International Longshore and Warehouse Union and the Pacific Maritime Association. The labor contract has now been expired for over 8 months. Negotiations have been ongoing for over 10 months, with little to no progress toward a new long-term agreement. It is imperative that the Administration work with the parties to quickly reach a new agreement and ensure there is no disruption to port operations and cargo fluidity.

We previously shared our concerns on July 1, 2022 when the contract initially expired. At that time we called upon the administration to engage with the parties as well as urged the parties to agree to a contract extension while negotiations continued. We applaud the engagement from former Secretary of Labor Marty Walsh through the negotiations. Now that he has departed the Administration it is critical that a new Administration point person be named to continue engagement with the parties as they negotiate. With the lack of progress to date, we would also encourage the administration to offer mediation services to the parties in their negotiations.

As we have witnessed, significant cargo flows have shifted away from the West Coast ports because of the uncertainty related to the labor negotiations. While there certainly are other issues impacting the West Coast ports, many cargo interests have expressly stated that they shifted cargo as a result of the negotiations. That cargo will not return to the West Coast until after a contract is final and approved by both parties. The longer there is no ratified contract only increases the probability that some portion of the freight will never return to the West Coast ports.

Businesses have already made their shipping decisions for the all-important peak shipping season, which will begin this summer. Even though cargo volumes have dropped, we continue to experience supply chain stress and challenges. While many continue to recover from pandemic related issues, the ongoing stress of inflation and economic uncertainty continues to impact supply chain stakeholders as well.

The lack of a labor contract adds to this uncertainty. While we appreciate that the parties agreed not to engage in a strike or a lockout, we are aware of several instances of activities that have impacted terminal operations. We need the administration to ensure these activities do not continue or escalate.

We know that significant issues remain for both parties to resolve. However, the only way to resolve these issues is for the parties to remain at the bargaining table and actually negotiate. We encourage the Administration to provide any and all support to the parties in their negotiations to reach a final agreement.

As we have said previously, the only way the parties can reach an agreement that will ensure the continued competitiveness of the ports and the supply chain stake-

holders who rely upon them is to remain at the table until a new agreement is finalized. Thank you for your leadership on this important issue.

Sincerely,

AGRIBUSINESS COUNCIL OF INDIANA  
 AGRICULTURAL RETAILERS ASSOCIATION  
 AGRICULTURE TRANSPORTATION COALITION—AGTC  
 AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE  
 AIRFORWARDERS ASSOCIATION  
 ALLIANCE FOR AUTOMOTIVE INNOVATION ALMOND ALLIANCE  
 AMCOT  
 AMERICAN APPAREL & FOOTWEAR ASSOCIATION (AAFA)  
 AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS  
 AMERICAN BAKERS ASSOCIATION  
 AMERICAN CHEMISTRY COUNCIL  
 AMERICAN CLEAN POWER ASSOCIATION  
 AMERICAN COMPOSITES MANUFACTURERS ASSOCIATION  
 AMERICAN COTTON SHIPPERS ASSOCIATION  
 AMERICAN DOWN AND FEATHER COUNCIL  
 AMERICAN FARM BUREAU FEDERATION  
 AMERICAN FEED INDUSTRY ASSOCIATION  
 AMERICAN FOREST & PAPER ASSOCIATION  
 AMERICAN FOUNDRY SOCIETY  
 AMERICAN HERBAL PRODUCTS ASSOCIATION  
 AMERICAN HOME FURNISHINGS ALLIANCE  
 AMERICAN INTERNATIONAL AUTOMOBILE DEALERS ASSOCIATION  
 AMERICAN LIGHTING ASSOCIATION  
 AMERICAN PYROTECHNICS ASSOCIATION  
 AMERICAN SEED TRADE ASSOCIATION  
 AMERICAN SPICE TRADE ASSOCIATION  
 AMERICAN TRUCKING ASSOCIATIONS  
 ARIZONA RETAILERS ASSOCIATION  
 ARIZONA TRUCKING ASSOCIATION  
 ASSOCIATED BUILDERS AND CONTRACTORS  
 ASSOCIATED EQUIPMENT DISTRIBUTORS  
 ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
 ASSOCIATION OF AMERICAN RAILROADS  
 ASSOCIATION OF FOOD INDUSTRIES  
 ASSOCIATION OF HOME APPLIANCE MANUFACTURERS  
 AUTO CARE ASSOCIATION  
 AUTOS DRIVE AMERICA  
 BAY AREA COUNCIL  
 BEER INSTITUTE  
 CALIFORNIA ALFALFA AND FORAGE ASSOCIATION  
 CALIFORNIA ASSOCIATION OF WHEAT GROWERS  
 CALIFORNIA BEAN SHIPPERS ASSOCIATION  
 CALIFORNIA BUILDING INDUSTRY ASSOCIATION  
 CALIFORNIA BUSINESS PROPERTIES ASSOCIATION  
 CALIFORNIA CHAMBER OF COMMERCE  
 CALIFORNIA CITRUS MUTUAL

CALIFORNIA COTTON GINNERS AND GROWERS ASSOCIATION  
 CALIFORNIA GRAIN AND FEED ASSOCIATION  
 CALIFORNIA HOTEL+ LODGING ASSOCIATION  
 CALIFORNIA RETAILERS ASSOCIATION  
 CALIFORNIA RICE COMMISSION  
 CALIFORNIA SEED ASSOCIATION  
 CALIFORNIA STATE FLORAL ASSOCIATION  
 CALIFORNIA TRUCKING ASSOCIATION  
 CALIFORNIA WAREHOUSE ASSOCIATION  
 CAN MANUFACTURERS INSTITUTE  
 CASCADE SHIPPERS ASSOCIATION  
 CAWA—REPRESENTING THE AUTOMOTIVE PARTS INDUSTRY  
 COALITION OF NEW ENGLAND COMPANIES FOR TRADE  
 COLORADO MOTOR CARRIERS ASSOCIATION  
 COLUMBIA RIVER CUSTOMS BROKERS & FORWARDERS ASSOCIATION  
 COMPUTING TECHNOLOGY INDUSTRY ASSOCIATION (COMP/TIA)  
 CONSUMER BRANDS ASSOCIATION  
 CONSUMER TECHNOLOGY ASSOCIATION  
 CORN REFINERS ASSOCIATION  
 COTTON GROWERS WAREHOUSE ASSOCIATION  
 COUNCIL FOR RESPONSIBLE NUTRITION  
 COUNCIL OF FASHION DESIGNERS OF AMERICA (CFDA)  
 COUNCIL OF SUPPLY CHAIN MANAGEMENT PROFESSIONALS  
 CPMA  
 CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF NORTHERN CALIFORNIA  
 CUSTOMS BROKERS & INTERNATIONAL FREIGHT FORWARDERS ASSOCIATION OF  
 WASHINGTON STATE  
 DISTILLED SPIRITS COUNCIL OF THE U.S.  
 FASHION ACCESSORIES SHIPPERS ASSOCIATION, INC.  
 FASHION JEWELRY & ACCESSORIES TRADE ASSOCIATION  
 FLORIDA TRUCKING ASSOCIATION  
 FMI—THE FOOD INDUSTRY ASSOCIATION  
 FOOTWEAR DISTRIBUTORS & RETAILERS OF AMERICA (FORA)  
 FOREIGN TRADE ASSOCIATION  
 FOREST RESOURCES ASSOCIATION  
 FRESH PRODUCE ASSOCIATION OF THE AMERICAS  
 GEMINI SHIPPERS ASSOCIATION  
 GEORGIA MOTOR TRUCKING ASSOCIATION  
 GLASS PACKAGING INSTITUTE  
 GLOBAL COLD CHAIN ALLIANCE  
 GRAIN AND FEED ASSOCIATION OF ILLINOIS  
 GREENABL SHIPPERS ASSOCIATION  
 HALLOWEEN & COSTUME ASSOCIATION  
 HARBOR TRUCKING ASSOCIATION  
 HAWAII TRANSPORTATION ASSOCIATION  
 HOME FASHION PRODUCTS ASSOCIATION  
 HOUSEHOLD & COMMERCIAL PRODUCTS ASSOCIATION  
 ICSC  
 IDAHO RETAILERS ASSOCIATION  
 ILLINOIS RETAIL MERCHANTS ASSOCIATION  
 INDEPENDENT ELECTRICAL CONTRACTORS  
 INDIANA MOTOR TRUCK ASSOCIATION  
 INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.  
 INTERMODAL MOTOR CARRIERS CONFERENCE  
 INTERNATIONAL CASUAL FURNISHINGS ASSOCIATION  
 INTERNATIONAL DAIRY FOODS ASSOCIATION  
 INTERNATIONAL FOODSERVICE DISTRIBUTORS ASSOCIATION  
 INTERNATIONAL FRANCHISE ASSOCIATION  
 INTERNATIONAL FRESH PRODUCE ASSOCIATION  
 INTERNATIONAL HOUSEWARES ASSOCIATION  
 INTERNATIONAL WAREHOUSE LOGISTICS ASSOCIATION  
 IOWA MOTOR TRUCK ASSOCIATION  
 ISSA, THE WORLDWIDE CLEANING INDUSTRY ASSOCIATION

JUVENILE PRODUCTS MANUFACTURERS ASSOCIATION  
     KANSAS CHAMBER  
     KANSAS MOTOR CARRIERS ASSOCIATION  
     KANSAS RETAIL COUNCIL  
     KENTUCKY RETAIL FEDERATION  
     LITTLER WORKPLACE POLICY INSTITUTE  
     LOS ANGELES AREA CHAMBER OF COMMERCE  
     LOS ANGELES COUNTY BUSINESS FEDERATION  
 LOS ANGELES CUSTOMS BROKERS AND FREIGHT FORWARDERS ASSOCIATION  
     LOUISIANA RETAILERS ASSOCIATION  
     MARYLAND RETAILERS ASSOCIATION MEMA, THE VEHICLE SUPPLIERS  
         ASSOCIATION  
     MICHIGAN RETAILERS ASSOCIATION  
     MINNESOTA GRAIN AND FEED ASSOCIATION  
     MINNESOTA RETAILERS ASSOCIATION  
     MINNESOTA SOYBEAN GROWERS ASSOCIATION  
     MISSISSIPPI TRUCKING ASSOCIATION  
     MISSOURI RETAILERS ASSOCIATION  
     MONTANA RETAIL ASSOCIATION  
     MOTORCYCLE INDUSTRY COUNCIL  
     NAIOP INLAND EMPIRE CHAPTER  
     NAIOP OF CALIFORNIA  
     NAIOP SoCAL  
     NATIONAL ASSOCIATION OF BEVERAGE IMPORTERS  
     NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS  
     NATIONAL ASSOCIATION OF MANUFACTURERS  
     NATIONAL ASSOCIATION OF WHOLESALE-DISTRIBUTORS  
     NATIONAL CONFECTIONERS ASSOCIATION  
     NATIONAL CORN GROWERS ASSOCIATION  
     NATIONAL COTTON COUNCIL  
     NATIONAL COUNCIL OF FARMER COOPERATIVES  
 NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA  
     NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION  
     NATIONAL FEDERATION OF INDEPENDENT BUSINESS  
     NATIONAL FISHERIES INSTITUTE  
     NATIONAL HAY ASSOCIATION  
     NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE  
     NATIONAL LUMBER & BUILDING MATERIAL DEALERS ASSOCIATION  
     NATIONAL MILK PRODUCERS FEDERATION  
     NATIONAL PORK PRODUCERS COUNCIL  
     NATIONAL POTATO COUNCIL  
     NATIONAL RESTAURANT ASSOCIATION  
     NATIONAL RETAIL FEDERATION  
     NATIONAL SORGHUM PRODUCERS  
     NATIONAL SPORTING GOODS ASSOCIATION  
     NATIONAL WOODEN PALLET & CONTAINER ASSOCIATION  
     NATURAL PRODUCTS ASSOCIATION  
     NEBRASKA RETAIL FEDERATION  
     NEBRASKA TRUCKING ASSOCIATION  
     NEW HAMPSHIRE MOTOR TRUCK ASSOCIATION  
     NEW JERSEY RETAIL MERCHANTS ASSOCIATION  
     NEW MEXICO TRUCKING ASSOCIATION  
 NEW YORK NEW JERSEY FOREIGN FREIGHT FORWARDERS AND BROKERS  
     ASSOCIATION INC.  
 NORTH AMERICAN ASSOCIATION OF FOOD EQUIPMENT MANUFACTURERS  
     (NAFEM)  
     NORTH AMERICAN HOME FURNISHINGS ASSOCIATION  
     NORTH AMERICAN MEAT INSTITUTE  
     NORTH AMERICAN RENDERERS ASSOCIATION  
     NORTH CAROLINA RETAIL MERCHANTS ASSOCIATION  
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CC:The Honorable Pete Buttigieg, Secretary, Department of Transportation  
The Honorable Julie Su, Acting Secretary, Department of Labor  
The Honorable Gina Raimondo, Secretary, Department of Commerce  
The Honorable Tom Vilsack, Secretary, Department of Agriculture  
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## IFA CAUTIONS DOL OF OVERLY BROAD INDEPENDENT CONTRACTOR RULE

December 14, 2022

[Government Relations](#) | [IFA](#)

*Proposed rule preserves independence of franchisees, but must do more to promote Main Street opportunities*

**WASHINGTON** – The International Franchise Association (IFA) this week issued comments to the U.S. Department of Labor (DOL) on its proposed independent contractor rule. In the comments, IFA highlights the importance of a standard that maintains the independence of franchise owners and urges the Department to further clarify that the proposal will not interfere with the franchise business model.

“The independence of franchise owners is essential to the way franchising works, and IFA urges DOL to provide clarity in the standard to protect the integrity of the franchise business model,” said Michael Layman, senior vice president of government relations and public affairs. “Franchising provides incredible opportunities for women, veterans and People of Color to pursue the American Dream. While IFA is appreciative that the proposal recognizes that the ABC test does not apply to the Fair Labor Standards Act (FLSA), franchised business owners deserve more clarity that this rule will not upend their livelihoods.”

The [comments](#) state, “The standard for determining employee or independent contractor classification under the FLSA is of direct and immediate concern to the franchise community, insofar as an overly broad standard threatens to fundamentally upend the successful franchise business model, particularly in the case of owner-operated franchises. IFA has strongly opposed efforts to enact independent contractor tests that rob franchise owners of their investments by effectively demoting them to employees of their brand.”

The comments, in response to the October 13, 2022, Proposed Standard for Determining Employee or Independent Contractor Classification Under the Fair Labor Standards Act, highlight the unique aspects of the franchise business model and explicit trademark and brand requirements under federal law that allow for independence business operation. IFA applauds the proposal for its express recognition that the ABC test does not apply to the Fair Labor Standards Act, appropriately clarifying that the franchise relationship falls outside of its coverage.

IFA also highlights how specifically minority-owned franchises would benefit from further clarity on several aspects of the rule, as the franchise business model [results](#) in higher wages, higher rates of minority ownership, and higher sales for minority-owned companies. Nearly 30% of franchised businesses are minority owned. Black-owned franchises, on average, earn 2.2% more in sales compared to Black-owned independent businesses and pay wages at a rate of 2.2% to 3.4% higher than non-franchised businesses.

Read the full comments [here](#).

###

### About The International Franchise Association:

Celebrating over 60 years of excellence, education, and advocacy, the International Franchise Association (IFA) is the world's oldest and largest organization representing franchising worldwide. IFA works through its government relations and public policy, media relations, and educational programs to protect, enhance and promote franchising and the approximately 775,000 franchise establishments that support nearly 8.2 million direct jobs, \$787.7 billion of economic output for the U.S. economy, and almost 3 percent of the Gross Domestic Product (GDP). IFA members include franchise companies in over 300 different business format categories, individual franchisees, and companies that support the industry in marketing, law, technology, and business development.

#### **Press Contact**

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Keep updated on all things franchise



October

11

2022

## Department of Labor Proposed Rule - Our Take



Today the Department of Labor released a proposed rule. There is no immediate or direct impact on the Lyft business at this time. The release today will allow for 45 days of public comment. This is just the first step in what is likely to be a longer process before any final rule or determination is made.

Importantly this rule:

- Does not reclassify Lyft drivers as employees.
- Does not force Lyft to change our business model.
- Is similar to the approach the Obama Administration used to determine employee status. This approach previously applied to Lyft and app-based companies and did not result in reclassification of drivers.
- Was expected on day one of this Administration.

Any new rule that addresses independent contractor status should be informed by those it impacts most: the workers. App-based work, in particular, is fundamentally different from traditional 9-to-5 work. Nowhere else can you find the same minute-by-minute flexibility to decide when, where, and for how long you want to earn. This type of independence and flexibility is the primary reason people turn to app-based work in the first place. Lyft will



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the independence and flexibility it provides. Federal policy makers should listen to a large and diverse group of drivers before publishing a final rule.

**In terms of specifics:**

- [96%](#) of Lyft Drivers **work or are students** in addition to driving with Lyft.
- [87%](#) of Lyft Drivers say that Lyft and other app-based **work allows them to earn money while pursuing other endeavors**, such as starting a new business, pursuing education, or interviewing for full-time jobs.
- [95%](#) of Lyft Drivers **drive fewer than 20 hours per week**. These drivers give the majority of rides on the Lyft platform.
- [92%](#) of Lyft Drivers support a policy proposal under which drivers would remain independent contractors, maintain the current flexibility they enjoy, and be given some, but not all, of the benefits that employees receive.

**Forward-Looking Statements:**

*Certain statements contained in this announcement are "forward-looking statements" within the meaning of the securities laws, including statements about regulatory matters. Such statements, which are not of historical fact, involve estimates, assumptions, judgments and uncertainties. There are a number of factors that could cause actual results or outcomes to differ materially from those addressed in the forward-looking statements. Such factors are detailed in Lyft's filings with the Securities and Exchange Commission. Lyft disclaims any obligation to update any forward-looking statements to reflect future events, except as required by applicable law.*





April 06, 2023

## Lyft Expanding 'Green' Mode to Help Connect Riders with Electric and Other Lower-Emission Vehicles



April 05, 2023

## Drivers, Start Your Earnings. Lyft Coming Soon to Edmonton



March 27, 2023

## A letter from incoming CEO David Risher



March 27, 2023

## A letter from co-founder John Zimmer





March 27, 2023

## Lyft Announces Leadership Succession Plan

**DRIVER**



**RIDER**



**LYFT**



Lyft driver app





Article suggests Julie Su among the 10 who left prior to arrests

we don't own this place.

"This is not a TWA flight," which can be hijacked, he added.

At 1:30 p.m. several protesters came out through the front window, upset and crying. They were quickly hugged and consoled by friends. One young critic accused them of abandoning their cause.

In all, at least 10 left this way prior to the arrests.

By early afternoon, a total of 30 officers were on the scene, according to Stanford Police Chief Marvin Herrington. About as many demonstrators got in position to block the bus route.

After numerous informal negotiations, Julie Su of the Asian American Students Association said the demonstrators faced a clear choice: "either get out or get arrested,"

**Takeover**

continued from page 6

since Kennedy would not come meet with them.

David Brown of the Associated Students Council of Presidents said the protesters would not leave unless Kennedy came, saying this was his responsibility as University president.

At 3:50 p.m., at the request of University officials, sheriff's deputies notified 21 protesters blocking the back entrance to the building that they would be arrested for unlawful assembly, refusal to disperse, and other misdemeanors.

The group sat down, locked arms, and then stood up individually to be handcuffed and taken to the bus. Stanford

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**'Education is our right; for our future we will fight'**

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officers made the arrests, while other deputies were stationed on the periphery.

After trying unsuccessfully to open the back door, police eased open two windows to gain entry to the building and arrest those sitting inside. Stacey Leyton of the Associated Students Council of Presidents was the first of 31 arrested there. They were charged with unlawful assembly and failure to disperse, misdemeanor charges.

Three others were charged with interfering with an officer

The 10 who left prior to the arrests appear to have escaped through a window.

## 57 ARRESTS AT STANFORD STUDENTS TAKE BUILDING TO PUSH RACIAL ACTION

May 16, 1989 Mercury News, The (San Jose, CA)  
 Author/Byline: JEFF GOTTLIEB, Mercury News Staff Writer | Page 1B | Section: Local  
 952 Words | Readability Lexile: 1160, grade level(s): 10-11-12

[Read News Document](#)

A daylong student occupation of the Stanford University president's office to press minority concerns escalated into what a sheriff's deputy called "scary time" Monday, when a crowd blocked a bus carrying more than 50 arrested students.

Several hundred students gathered outside the office, some shouting slogans of support to the protesters and many clearly stunned to see riot-helmeted police on campus.

Chanting "No arrests," students crowded around the dark-green bus the Santa

Monday, the students talked to their supporters through the window of Kennedy's office. During the day, at least 10 students gave up the occupation by crawling out the window. They were not arrested.

David Remer, 20, was one of those students. He said the protesters blocked off the offices and stayed in halls and reception areas.

He said they covered the desks with blankets and locked the files, to prevent any damage to university equipment and records.

"We even took messages," he said.

Outside, protesters chanted, "Hey, hey, ho, ho, the administration is too damn slow."

A sign on the wall outside Kennedy's office read, "Self Determination for Education."

Article suggests protestors vandalized office/police cars

 Photo by Vern Fisher  
Students staged a sit-down and stand-up protest at the rear of university president Donald Kennedy's office last week. More students were barricaded inside the president's office. A total of 55 students were arrested in the demonstrations, the largest on the Stanford campus since 1977.

### The 60s revisited

## 55 arrested at Stanford sit-in

By Mary Madison

The arrests last Monday of 55 students at Stanford University has been compared by many observers to the anti-Vietnam War protests that engulfed the campus 20 years ago.

Midway through Monday's marathon demonstration — which ended at about 9 p.m. — one student leader said, "This is like 1969. It's scary."

Rodney Kennedy-Minott, senior research fellow at the Hoover Institution, echoed the feelings of many old Stanford hands, in saying, "I never thought I'd see this again at Stanford or any other place."

Members of the coalition said they are outraged by what they claim is lack of action on minority concerns and lack of student input on how Stanford spends its money.

Kennedy was the target of Monday's daylong demonstration and sit-in. About 60 students occupied the president's Inner Quad office at 7:45 a.m. and refused to leave until Kennedy came to talk to them.

Unlike other sit-ins, where staffers were allowed to come and go as students sat on the floor, in last week's demonstrations students barricaded doors from the inside and refused to permit any workers to enter.

Students used two-by-fours, chains and ropes to seal off the entrances.

The occupation marked the most serious assault on the president's office since the war riots of 1968 when then-President Wallace Sterling's office was set afire.

Kennedy maintained his normal schedule without coming to his office but stayed in touch with administrators at the sit-in.

Chanting "Self Determination for our Education," the Students of Color Coalition resisted hours of pleas by university administrators and faculty to halt the sit-in.

About 30 Stanford police officers and Santa Clara County sheriff's deputies were summoned, and a police bus with barred windows was parked near the barricaded office. Students were warned twice that arrests were imminent unless they ended the sit-in.

Kennedy sent word that he was willing to meet with representatives of the coalition — an offer first made last week — but the demonstrators would not budge from their demand that he come to the sit-in.

About 20 chanting students, who sat in front of the door, were arrested first about 4 p.m. Another three students were arrested about 5:20 p.m. for allegedly trying to block the bus that was standing by to carry the arrested demonstrators to jail.

The 34 women and 21 men arrested were cited and released for misdemeanor charges that included trespassing, obstruction of the business of the university failure to disperse and unlawful assembly.

But those who remained inside the office were under consideration for an additional felony charge of conspiracy, according to police and Stanford officials.

All were cited and released at

Stanford, following a standoff between police and demonstrators who were determined to free their arrested classmates on campus.

Most of the arrested students were handcuffed from behind with plastic bands and taken to the jail bus by deputies. As each student was led away from Kennedy's office, about 200 other students who were watching cheered and chanted slogans of support. Most of the demonstrators were defiant, although a few appeared teary-eyed.

The first students arrested were put on the bus about 4 p.m., and remained there for nearly three hours until officials decided not to transport them to the county jail in San Jose as originally planned.

The crowd of students watching the arrests grew to about 400, who yelled, clapped and jeered at police who were guarding the bus.

Students let the air out of the tires of a police vehicle that was in front of the bus and also flattened the tires of two other cars that had been parked to block the bus.

Student chants during the two-hour standoff over the bus ranged from, "No violence!" to "The whole world is watching!" to "Let them go!" At one point a line of students tried to block Serra Street to prevent police from removing arrested demonstrators in other police vehicles.

The number of arrests was the second largest ever made on campus. In 1977, 294 demonstrators were arrested following a sit-in at the Old Union over the issue of divestment in South Africa.





# THE STANFORD DAILY

An Independent Newspaper

STANFORD, CALIF. 94305



Police arrested 21 students at 4:30 p.m. in the attack on Rumsfeld's office. The protesters occupied the office for nine hours. Police arrested 33 students outside the office. The protesters occupied the office for nine hours. Police arrested 33 students outside the office.

The protesters... (transcription of the main article text)

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## Protesters may be charged with Standard violation

By Alvin Kent  
Senior Staff Writer

Calling protesters' behavior of the President's office possession and violent, high-ranking University officials say they will investigate whether the students in question violated the Fundamental Standard.

University President Donald Kennedy called the occupation "unlawful" in an official statement. James Lyons said the Daily that he was "very sure that some action will be taken because it's a violation of the Standard policy and there is no way this could be covered otherwise."

"We will be identified and charged with actions," says Dean of Student Affairs Michael Jackson said.

The Rules on Campus Organization, which is an application of the Fundamental Standard, explicitly states that any disruption of University business is a violation of University policy, according to Judicial Affairs Officer Judy Cole.

"The policy states, 'It is a violation of University policy for a nonacademic activity, staff or student body to...'

"Present or disrupt the academic activity of any University function or organized activity, such as lectures, seminars, symposia, conferences, the conduct of University business in a University office, and public events."

"I suspect the legitimate concern of the protesters about the Standard is not the Standard itself but the fact that the Standard is a violation of the policy. I don't think there is any question about that."

Students who are arrested are in the University's judicial system. In addition to a possible Standard violation, students who were arrested may be charged with other offenses such as trespassing and disturbing the peace.

Students who are arrested are in the University's judicial system. In addition to a possible Standard violation, students who were arrested may be charged with other offenses such as trespassing and disturbing the peace.



A group of student protesters join hands to show their strength and unity outside University President Donald Rumsfeld's office, while other students kept the struggle going inside. Students occupied the President's Office for nine hours. Police arrested 21 students inside the office and 33 students outside.

<https://www.newspapers.com/article/the-napa-valley-register-ap-story-pn-89/123159983/>

## Stanford sit-in to protest alleged minority problems

STANFORD (AP) — Claiming that Stanford University officials have ignored their demands to hire more minority faculty and help end racism on campus, a group of students barricaded themselves inside the president's office in a protest that led to 55 arrests.

The peaceful sit-in attracted several hundred supporters Monday and prompted 12 faculty members to sign a statement of support deploring the use of police and asking Stanford University president Donald Kennedy to negotiate with the students.

"I think it's only the beginning, actually," said Julie Su, 20, a spokeswoman for the Asian American Students' Association. "It shows students aren't going to let down, they aren't going to be intimidated."

Most of those arrested were released after being cited for misdemeanors that included unlawful assembly, trespassing and failure to disperse, said university spokeswoman Eileen Walsh.

About 60 students occupied or barricaded the office of university president Donald Kennedy at about 7:30 a.m. Daylong negotiations between students and university officials failed, and Santa Clara County Sheriff's deputies began arresting protesters shortly before 4 p.m.

Twelve of those arrested were taken to the county jail in San Jose,

where they were booked for investigation of misdemeanor charges, Walsh said. Another 40 were cited and released after a crowd of several hundred cheering supporters prevented the sheriff's bus full of arrestees from leaving by creating a blockade of bodies, cars and bicycles, Walsh said.

Three other participants were cited for resisting and delaying an officer, Walsh said. They were released.

Student leaders have called a noon rally for today.

The protest was organized by the Stanford Asian-American Students Association, the Black Student Union, the American Indian Organization, the Committee on Democratic Education, and MECHA, a group representing Chicano students.

The students sought a meeting with Kennedy to discuss demands relating to minority hiring, discrimination and undergraduate education.

There have been several racist acts on campus this academic year, along with the departure of some minority faculty and complaints of "institutional racism" by attorneys for the United Stanford Workers union.

Last October, a poster at a predominantly black fraternity house was defaced with the word "niggers." Two weeks earlier, a flier

depicting Beethoven as brown-skinned with wild, curly hair, big lips and red eyes was left outside the room of a black freshman from Chicago.

Students seeking a response to escalating racism met with university administrators and faculty members but "weren't getting any action. We were getting a lot of fancy rhetoric," said Su, a sophomore majoring in political science.

"The frustration has been building for a long time and finally it culminated four or five days ago to where (we felt) we've got to do something about this," she said. "This was our tactic of last resort. The university left us with no choice."

The sit-in began when a group of students pushed past a receptionist outside Kennedy's office, asked employees to leave, and then blocked the doors. Students locked files and covered furnishings with blankets to prevent damage.

After the protest began, Kennedy issued a statement condemning the takeover.

"As is our practice, the university will not negotiate on issues of substance in response to unlawful coercion," he said.

Kennedy has long planned to give his initial response to a report by the University Committee on Minority Issues at the Academic Council meeting on May 18.

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**Encyclopedia of Anti-Revisionism On-Line**

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**Michael Friedly**

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**League has played little-known role in  
campus politics**

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**First Published:** *The Stanford Daily*, Volume 197, Issue 63, 23 May 1990.

**Transcription, Editing and Markup:** Paul Saba

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A secretive nationwide organization called the League of Revolutionary Struggle (Marxist-Leninist) has been a little-known factor in student politics at Stanford for several years, a *Daily* investigation has found.

Through the selective recruitment of Stanford students into its organization, the League has been able to influence aspects of progressive politics on campus by trying to place its members in leadership positions within the ASSU, the communities of color and in staff positions.

The total number of Stanford students and staff members who are League members is apparently fewer than 30, but these individuals are in positions that allow them to shape student government policies, according to a number of sources who said they have either been recruited by the League or have worked with League members in the ASSU or student of color organizations.

The presence of the League has been in part responsible for dramatic effects at Stanford, ranging from divisions within the communities of color to the pressured resignation of an administrator to parts of the planning of last spring's takeover of University President Donald Kennedy's office.

However, most students involved in progressive politics, including many leaders of the ASSU and student of color organizations interviewed by *The Daily*, are unaware of the League's presence.

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4/19/23, 9:11 AM

League has played little-known role in campus politics

The League, based in the Bay Area but with membership across the country, has been able to recruit Stanford students into its organization in a manner secret enough so that students are not initially told they are being recruited by the League, according to several Stanford students who said they were recruited but did not join the League.

Recruitment of individuals by the League is generally conducted over a long period of time, several years in some cases, according to students who were recruited. Students who are successfully recruited by the League are then able to further the League's goals by running for student offices and helping to determine policies in the ASSU and other student groups.

### Three-month investigation

Over the past three months, *The Daily* has interviewed dozens of students who have some familiarity with the League. These interviews were part of an investigation of the League which included more than 100 interviews with students, administration officials and nationwide experts.

Many students interviewed by *The Daily* asked not to be identified because they said they are afraid of harassment by League members. Former Asian American Student Association chair Richard Suh said he was heavily recruited by Elsa Tsutaoka, the office manager of the Asian American Activities Center for three years, but eventually decided against joining the League.

Suh sat on the committee that planned the takeover and was himself arrested in the action. In addition, Suh was selected for the search committee that found a new Asian-American dean last spring after the resignation of the outgoing dean.

Suh said he was primarily concerned about the secrecy of the organization. According to Suh, when Tsutaoka asked him to apply for membership in the League, Suh asked her which Stanford students were members of the League. "You shouldn't ask that question," was the reply, he said.

Tsutaoka denied having any knowledge of the League or that she had ever recruited for the League.

Because the recruitment process is secretive and individuals refuse to acknowledge that they are members of the League, it is difficult to prove whether anyone is a League member.

### League theory

4/19/23, 9:11 AM

League has played little-known role in campus politics

According to League theory, the United States is composed of various “oppressed nations,” such as the Afro-American nation in the South, the Chicano nation in the Southwest and the Asian American nation. The overall goal of the League has been the liberation of these nationalities under a socialist state, according to a 1986 League publication called “Peace, Justice, Equality and Socialism” that explains its goals.

Until it can gain enough support to stage a revolution, the League attempts to “organize, agitate and educate the masses” by working with more mainstream groups, according to the publication. By making mass organizations more radical, the League can gain enough support for its “protracted revolution” in the United States, the publication states.

Unlike the Communist Party USA, which is a predominantly white organization, the League focuses on mass organizations dealing with people of color for its support within student and labor movements. At Stanford, the League has tried to work toward its goals with varying degrees of success in MEChA, a Chicano/Latino student group; AASA; the Black Student Union and the ASSU through the People’s Platform.

Although the League has operated in almost complete secrecy at Stanford, there has been a growing awareness of its presence, in large part because of *The Daily’s* investigation.

League members at Stanford “are leading progressive politics on campus ... because they are the best and the hardest workers,” Suh said.

Council of Presidents member David Brown and former COP member Stacey Leyton are both believed to be members of the League, according to a number of sources. Brown refused to comment. Leyton denied that she was a member or that she had any knowledge of the League’s membership at Stanford.

Although there is no indication that she joined the League, COP member Ingrid Nava, who was recently re-elected to a second term, was heavily recruited by the League beginning at the end of last summer, according to a number of students. Nava refused to return numerous phone calls.

At the end of last summer, Nava lived briefly at a house on Bryant Street in Palo Alto known sarcastically by some progressive students as the “Revolutionary Hotel,” where recruitment for the League has occurred, according to sources who say they have been recruited.

Tsutaoka and Steven Phillips, a former BSU chair and current Daily multicultural editor who has allegedly recruited for the League, currently live in the house. Phillips recruited Nava beginning in September, according to a student who was also recruited by the League.

Phillips said he had no knowledge of the League's involvement at Stanford and has not recruited for the organization.

### Takeover planning

A steering committee which was comprised of at least two members of the League and several others who were being actively recruited at the time were behind much of the planning for the May 15, 1989, takeover of University President Donald Kennedy's office. The protest was staged to demand an Asian-American tenured professor position, a fulltime Chicano dean and a director for the African and AfroAmerican Studies Program among other goals. Although these goals were widely accepted in the color communities that sponsored the action, it was the tactics of the takeover planned by the committee that alienated many students.

"It was the tactics and not the goals (of the takeover) that were planned" by members of the League who sat on the committee, according to a student arrested for involvement in the takeover who knew of the League's influence. "When specific decisions are made about what tactics to use, such as whether or not to do a takeover for example, these people have a lot of influence, because they're the ones who are leaders."

Most people involved in the takeover did not know of the League's influence in the tactical planning of the action. Steve Ostrander, a senior who was arrested in the takeover, said he was "shocked" when he was told in January that some of the people he had worked with on the takeover and other issues were League members.

Ostrander said he felt "manipulated" by the League members because he was not told "where the power was really coming from."

"I had worked feverishly [in progressive politics] . . . but in the end these people couldn't tell me what was really going on," he said. Committee members were selected from the ASSU Committee on Democracy in Education, AASA, MEChA, the Stanford American Indian Organization and the black community. The BSU did not officially approve of the takeover but supported the participation of individuals within the BSU.

The steering committee met in complete secrecy, deciding that a physical takeover of the building would be necessary to achieve its goals. Gina Hernandez from MEChA and Leyton from CODE, who sat on the steering committee, are League members, according to a number of sources who asked not to be identified. Leyton denied having any connections with the League. Hernandez said she had never heard of the League.

Although students allegedly associated with the League comprised much of the leadership of students in the takeover, most students involved in the takeover, and even

4/19/23, 9:11 AM

League has played little-known role in campus politics

some of the planners, were not told of their influence, according to sources. Most students involved in the takeover only became aware of the specific action the night before it happened.

"Whenever you take over a building, there has to be a certain degree of secrecy," Leyton told *The Daily* last month.

Students allegedly connected to the League from other universities, including San Jose State, UC-Berkeley, UC-Santa Cruz and San Francisco State, were also present at the takeover to show their support for the action.

#### Administration response

Administration officials said they had some indication that the League was involved in the takeover, but did not attempt to investigate the influences of the League.

Kennedy said he was aware of "outside influences" at the takeover, but said he did not investigate them because that would be interpreted by the students involved as an "effort to disregard the message in favor of finding a messenger to shoot." Kennedy also said he had little evidence to substantiate the claim of League involvement in the takeover.

"On the other hand, I really am concerned when students, and particularly freshmen, are influenced by people who are working for their own secret agendas. . . . If there was any of that, then I'm troubled by it," he said.

Assoc. Dean of Student Affairs Michael Jackson said it would be "counterproductive" to investigate outside influences on the takeover. "All I know is that I was dealing with 50-plus students who were occupying the President's office, and like they hold us accountable for the University, we hold them accountable for what they're doing (regardless of outside influences)," he said.

Students associated with the League are also in part responsible for last year's resignation of Juan Yniguez, the former director of El Centro Chicano and dean of Chicano affairs, who was pressured by some MEChA members to resign from his post. Yniguez had been critical of the influence of the League in MEChA before he was pressured to resign. Pressure from within MEChA came from both League and nonLeague people.

#### Divisive effects

The League has often had divisive effects on the various color communities. Deep ideological divisions within the Stanford Chicano community have been in part the result

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League has played little-known role in campus politics

of the League's influence within MEChA, according to a number of students and staff members in the Chicano community critical of the League.

League members at Stanford are "good people, political activists, but their tactics cause the most problems in minority communities," said Rudy Fuentes, a co-founder of Stanford MEChA in 1985 and a former Council of Presidents member who currently attends Boalt Law School at UC Berkeley.

The League at Stanford has found support over the years in the membership of MEChA, where recruitment of MEChA members into the League is conducted by former MEChA members, according to sources. The League has had more influence in MEChA in past years than it holds now, but its power decreased last year with the graduation of a number of MEChA members allegedly associated with the League. However, the League still influences many decisions of MEChA through its ties with some MEChA members, according to a MEChA member who did not wish to be identified.

More subtle divisions within the BSU and AASA have also resulted because of the League, with only a few members of each group connected to the League.

#### Little influence in BSU

This year the League has little influence in the BSU because of the actions by the BSU officer corps to reduce the power of students they believe to be League members within the BSU. Last spring, outgoing BSU chair Mary Dillard warned incoming chair Calvin Joel Martin about the power of the League.

BSU officers interviewed by *The Daily* said there was an internal division in the BSU based on League membership, with more progressive members in one faction and a more moderate faction headed by Martin. But Martin and other BSU officers said they had no solid evidence that individuals within the black community were League members.

"Everybody writes [League members] off as being too radical," according to former BSU general representative Bacardi Jackson. "It's not active members of the BSU that they get their respect from."

The takeover caused a noticeable schism in the BSU officer corps last year, alienating League members from a more moderate faction led by Martin. The BSU officer corps did not officially endorse the takeover and did not even know a takeover was scheduled until the day before it happened, according to Martin.

The takeover was their mistake in the black community, because it created this division, according to one BSU member who was recruited by the League. The student, who

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League has played little-known role in campus politics

participated in the takeover, asked not to be identified.

### 'Like a lackey'

Stanford's Asian-American community has several people who are League members, according to Suh, the AASA chair who resigned in October because of the League's influence.

Although at the time he said publicly that he resigned for "personal reasons," Suh recently told *The Daily* he resigned because he was disillusioned with the League. "I decided at some point that I felt like a lackey, because on a theoretical level [League members] were fighting for ... another agenda."

"I felt that the progressive politics at Stanford were so dominated by this group, that I didn't feel independent unless I disconnected myself from progressive politics for a while," he said.

In October, Suh submitted a letter of resignation to AASA members he believed to be members of the League in which he indirectly criticized the presence of the League in the Asian American community.

There is currently a minor split in the Asian-American community, which Suh and others in the community partially attribute to the League. However, others say the split is based primarily on the conflicting personalities of AASA members.

Julie Su, who resigned in March as the co-chair of the AASA issues committee, said she was unaware of the League presence at Stanford, and that "the split is based on personality more than anything else." She cited frustrations in dealing with more radical officers of AASA as the reason for her resignation.

The AASA officer corps has very little League influence at the top levels, although a few AASA members are alleged to be league members by Suh and other sources.

Tsutaoka is the League leader in the Stanford Asian-American community and also has wide influence in the other color communities, according to Suh and a number of other sources.

Suh said Tsutaoka has an "inordinate amount of power and influence in Asian-American student politics" because she is consulted on many important decisions within AASA, despite no longer being a student. Tsutaoka has also written for *Unity* newspaper, a League publication.

Writers for *Unity* newspaper do not necessarily have any connections to the League.

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League has played little-known role in campus politics

Although *Unity* newspaper originally called itself the newspaper of the League, it no longer admits its ties to the League. It is published by Getting Together Publications, which prints the *Forward Journal of Socialist Thought*, the League's journal, as well as other League publications.

#### **Troubled by secrecy**

Kennedy said he was aware of the existence of the League and its presence at Stanford, but said he had no specific knowledge of its activities or membership. "If I'm troubled by anything, it's the secrecy. It's that there is an organization that is active and plainly has a political agenda, and that nobody is saying anything about it," Kennedy said.

"That's a whole lot less open than the traditions of this community," he added.

Other administrators said they were also aware of the League but did not know the extent of its influence. Dean of Student Affairs James Lyons said he has known of the existence of the League since "the late 1970s or early 1980s" when he saw *Unity* newspapers being distributed on campus.

Lyons said he was never particularly concerned with the influence of the League at Stanford because "it smacks to me of the kind of small-group movement oriented political activist groups that have characterized American higher education throughout its history."

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## The Freedom Fighter : Lawyer Julie Su Finds Inspiration in the Thai Garment Workers She's Assisting

By PAMELA WARRICK  
SEP. 4, 1995 | 12 AM

TIMES STAFF WRITER

It is with nostalgia that Julie Su recalls her only arrest back in 1989.

As a leader of Stanford University's Asian American Students' Assn., she and other minority classmates were detained briefly by police after a peaceful sit-in protesting racism on campus.

"Well, I was arrested, but, you know, well, in the end, all the charges were dropped."

No convictions then?

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"Ah, no, I'm afraid not."

So much for the secret life of Los Angeles' most celebrated, young, non-O.J. lawyer.

Julie Ann Su, age 26, *Phi Beta Kappa*, Stanford; *cum laude*, H

4/19/23, 10:51 AM The Freedom Fighter : Lawyer Julie Su Finds Inspiration in the Thai Garment Workers She's Assisting - Los Angeles Times

Three weeks ago, as cameras clicked and whirred, Su led the first workers to freedom after their rescue from an El Monte sweatshop and subsequent detention by the U.S. Immigration and Naturalization Service. She was foremost among lawyers who had negotiated the workers' release on bond and found housing and jobs for them.

Since then, Su has led many of the workers to the beach, Griffith Park and Disneyland. And, in the process, she has become more than their friend. Among the coalition of activists and public-interest lawyers representing the 72 undocumented workers, she has been the most visible and outspoken advocate for the immigrants' cause.

"The story of Julie Su is really not that interesting," she insists. "The story of these immigrant workers--how they came here with their dreams of America, how they were enslaved, how they were freed only to be incarcerated again--that's the story that needs to be told."

But, at least recently, the story of Julie Su *is* the story of the Thai garment workers. As a \$32,500-per-year attorney for the Asian Pacific American Legal Center, Su has been working seven days a week to help the laborers--taking them to lunch, taking them to the dentist and taking them to court to tell their own stories.

Today Su will observe Labor Day by joining a march through Chinatown to protest the exploitation of immigrant workers and honor the sacrifices of her clients. "They are victims of some of the worst crimes imaginable," she says.

Most of the laborers are rural women who left impoverished eastern Thailand and enlisted in the Bangkok sewing trade. Their employers brought them to the United States, telling the workers the debt for their transportation--alr

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Virtually imprisoned behind barbed wire in a guarded El Monte **SUBSCRIBE** r's  
 were forced to toil from 7 a.m. to midnight for less than \$2 per hour for years, according  
 to state and local authorities who raided the operation last month.

In a cramped office on the fourth floor of the United Methodist Church building at the  
 corner of Flower Street and Olympic Boulevard, Su also toils long hours. When she  
 takes a break, it is to join the Thai workers at a Buddhist temple or a picnic or a park.

Every encounter she describes as “awesome.”

“Can you imagine not seeing the sky for years? On our very first outing, one of the  
 workers said to me, ‘This is my new birthday. I feel I have been born again.’

“A woman on our visit to Griffith Park Observatory looked down at Los Angeles and  
 said, ‘This looks like heaven.’

“They are so inspirational to me. They are such gentle, good-hearted people. And they  
 really want to get back to work. This flies in the face of everything [Gov.] Pete Wilson  
 says. All they’ve ever done since they came to this country is be productive.

“They truly are heroes.”

Educated at elite educational institutions such as Stanford and Harvard was a privilege,  
 says Su, but one that exposed in stark detail the differences between the haves and  
 have-nots in the United States.

“Stanford, for example, was built by indentured Chinese railroad workers. Nobody ever  
 talks about that,” rages Su, who, after a tour with the Peace Cor  
 reasons to be outraged when she began law school at Harvard

There, as at Stanford, she agitated and organized and engaged in **SUBSCRIBE** to promote more curricular attention to matters of social justice.

“At Harvard, we learned to think like lawyers, but we did not learn to think like human beings,” she says. “In fact, these were mutually exclusive.”

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Over the last month, she says, life's lessons have been more relevant. “I've learned some phrases in Thai--how to say ‘I've missed you,’ ‘I've been thinking about you,’ and how to say, ‘This is a good person, a warm-hearted person.’”

Each night, Su returns to her parents' home in Cerritos, where she shares a flowery bedroom with her younger sister. Her modest salary for working at the legal center is paid by the Skadden Fellowship--a grant from the New York law firm Skadden, Arps, Slate, Meagher & Flom that pays young lawyers to work in public interest law. The condition of Su's fellowship is that she litigate on behalf of workers to eliminate sweatshop conditions in Southern California.

As a child, Su knew little about the rights of indigent workers, but she did know something about immigrants. Her parents, who owned a laundromat when Su was young, were Chinese immigrants and no strangers to racial discrimination.

“There were times when I knew we were being demeaned or ridiculed. There were the neighbors who'd run into the yard and pull their eyes back into slits like a cartoon. There were the people who made fun of the way my parents spoke English.”

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tremendous power--power that can be used to achieve social jus **SUBSCRIBE**  
responsibility.”

But, for all her efforts, there are also great rewards.

Last week, in the warm sand next to the Santa Monica pier, a few of the Thai laborers  
taught her some of their country’s dances.

“I’m a lot better at tap dancing, but still it was--awesome.”

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Rent is falling in Los Angeles. Head east, you’ll find the opposite



Dear Senator,

On behalf of more than 3 million Americans for Prosperity activists across all 50 states, I write in opposition to President Joe Biden's nomination of Ms. Julie Su for secretary of labor. We urge you to vote against her confirmation and push for a nominee to lead the U.S. Department of Labor who will better protect the livelihoods of independent workers and the wellbeing of small businesses, as well as push for more accountable union representation.

Ms. Su's track record as California's secretary of labor, as well as the actions of the U.S. Department of Labor where she has served as deputy secretary since 2021 prior to becoming acting secretary in March 2023, raise serious concerns for the evolving preferences of the American workforce in the 21<sup>st</sup> century, particularly as the country continues to face labor shortages and high inflation.

Chief among those concerns is Ms. Su's support for and enforcement of California's Assembly Bill 5, the legislation that threatens to destroy the livelihoods of millions in that state by instituting a convoluted and unworkable "ABC" test to determine whether a worker is an independent contractor or a traditional employee.

AB 5 has wrought havoc in the state by depriving tens of thousands of freelance workers the independent status and entrepreneurial opportunity they cherish and created confusion about employment status for countless more as hundreds of industries have sought exemptions from the law. It has also further exacerbated supply chain issues due to California's importance as a major shipping and delivery hub.

Freelancing has grown significantly in recent years, particularly through the pandemic. Today, more than 70 million Americans work as independent contractors, and federal data shows that the vast majority enjoy their independent status over traditional employment. Given her track record, Ms. Su's confirmation to secretary of labor would immediately threaten their livelihoods.

Beyond attempting to undermine independent contracting, Ms. Su took several other actions in California that put the special interests of organized labor above the interests of individual workers and the broader economy, including support of "sectoral bargaining" that would allow a panel of unelected bureaucrats to determine wages, working conditions, and other decisions for every business across an entire industry. She even created an *armed labor police force* and bragged about plans to arrest employers for violations of state employment law.

The Department of Labor under President Biden has already repeatedly put the priorities of union leadership above those of America's workers, including some decisions that failed to make headlines. One example is rescinding the Form T-1 Trust Annual Report that allowed union workers greater transparency to see how union leaders were spending their union dues.

It has become abundantly clear that Ms. Su would not only continue this trend of bad policy decisions but significantly accelerate it in even more radical ways.

California ranks at or near the bottom in countless economic indicators. But one statistic where it ranks near the top is out-migration: more than half a million people have fled the state over the last two

years, thanks in no small part to public policies like the ones Ms. Su has championed. Confirming Ms. Julie Su to lead the U.S. Department of Labor would be tantamount to taking California's failures national. American workers simply cannot afford for you to let that happen.

We urge you to vote against her nomination and push President Biden to nominate a secretary of labor whose approach better serves the interests of the American workforce in 2023 and beyond.

Sincerely,

A handwritten signature in black ink that reads "Brent Wm. Gardner". The signature is written in a cursive, flowing style.

Brent Wm. Gardner

Chief Government Affairs Officer

Americans for Prosperity



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Brent Wm. Gardner

Chief Government Affairs Officer

Americans for Prosperity



April 20, 2023

The Honorable Bernie Sanders  
Chair  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate HELP Committee  
520 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Sanders and Ranking Member Cassidy,

I am writing on behalf of the National Restaurant Association to express our opposition to the nomination of Julie Su to serve as the next Secretary of Labor.

The National Restaurant Association represents all segments of the restaurant industry. With more than 15 million people working in the restaurant industry, and food and beverage sales forecast to reach \$997 billion this year, the restaurant industry is a vital part of the American economy.<sup>1</sup>

As our industry is one of the country's largest employers, the Department of Labor (DOL) impacts it daily. DOL develops binding regulations and directives, as well as enforces a variety of workplace laws. The DOL is currently considering numerous proposals that will significantly affect the industry's future. As Secretary of Labor, Ms. Su would both set and implement critical policy.

Unfortunately, Ms. Su has a long history of supporting policies detrimental to the restaurant industry. As Secretary of California's Labor and Workforce Development Agency, she championed Assembly Bill 5 (AB 5), which attempted to drastically change worker classification, threatening to reclassify independent contractors as employees. Independent contractors play a critical role in the restaurant industry. Many restaurants rely on independent contractors, such as delivery drivers, to operate successfully. Fortunately, California voters overwhelmingly rejected AB 5 in 2020 by passing Proposition 22. However, if Ms. Su is confirmed as Secretary of Labor, she will likely make it more difficult for independent contractors to work in the restaurant industry, supporting initiatives that mirror California's AB 5 at the federal level. This would devastate the industry and the millions of workers who rely on independent contracting to make a living.

Further, Ms. Su's support for another California bill, AB 257, the Fast Food Accountability and Standards Recovery Act (FAST Act), is deeply concerning. The FAST Act hands power over quick service restaurants to unelected political appointees without accountability. The Fast Food Council established by the legislation can set regulations without consulting the California Legislature, including rules concerning wages, training requirements, health and safety standards, and more. The FAST Act sets a dangerous precedent that undermines local restaurant owners and grants unelected political appointees excessive and unchecked power over one segment of the industry. It is so radical that California's own Department of

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<sup>1</sup> National Restaurant Association. "2023 State of the Restaurant Industry." February 28, 2023.  
<https://restaurant.org/research-and-media/research/research-reports/state-of-the-industry/>

Chairman Sanders  
Ranking Member Cassidy  
April 20, 2023  
Page Two

Finance opposed the bill<sup>2</sup> and over one million California voters<sup>3</sup> signed a referendum to put the law on hold until they could have their say.

Ms. Su backed the FAST Act when it included a provision that would have made every franchisor covered by the law a joint employer, liable for any labor code violations committed by its franchisees. This would have imposed significant new liabilities on franchisors, potentially exposing them to costly litigation and making operating their businesses more difficult. This, in turn, would upend the franchise business model and harm small business franchisees and their employees. After industry pushback, the joint employer provisions were removed from the FAST Act. However, the U.S. Department of Labor is expected to consider changes to the joint employer legal standard under the Fair Labor Standards Act (FLSA.) Therefore, Ms. Su's support for an expanded definition is of great concern to the industry.

Throughout Ms. Su's time in public office, she has advanced onerous regulations and policies, often targeting specific industries, raising serious questions about her ability to serve as Secretary of Labor fairly and impartially. As Deputy Secretary of Labor, Ms. Su has been a vocal advocate for eliminating the tip credit. Under the FLSA, an employer may count a limited amount of the tips its tipped employees receive as a credit toward its minimum wage obligation—a practice known as a tip credit. If the combination of a tipped employee's base wage plus tips does not meet or exceed the federal or applicable local minimum wage, then the employer must make up the difference. Tipped servers and bartenders often have the highest incomes in a restaurant. Maintaining the tipped credit provides tipped employees with greater earning potential—waitstaff at full-service restaurants earn a median of \$27 an hour, with the highest-paid tipped employees making \$41.50.<sup>4</sup> Despite this, Ms. Su has characterized the tip credit as abusive and oppressive. Tipped employees continue to oppose the elimination of the tip credit and deserve a Secretary of Labor who will listen to their concerns.<sup>5</sup>

Finally, Ms. Su's administration of the unemployment insurance (UI) program during the COVID-19 pandemic gives restaurants significant pause. Ms. Su, as head of the California Employment Development Department (EDD), was responsible for overseeing the UI program in California. Mismanagement of the program led to billions of dollars in fraudulent claims being paid out to criminals while legitimate claims went unpaid.<sup>6</sup> This directly impacted small businesses and restaurant operators, who have been forced to pay higher taxes to cover the shortfalls caused by the fraud.<sup>7</sup> These increased costs have been a burden on businesses that are already struggling to survive in the current economic climate.

<sup>2</sup> California Department of Finance. "Department of Finance Bill Analysis – AB 257." June 16, 2022. <https://esd.dof.ca.gov/LegAnalysis/getPdf/066D8BA5-C012-ED11-913B-00505685B5D1>

<sup>3</sup> National Law Review. "Not so FAST – AB 257 on Hold Pending Voter Referendum in 2024." February 1, 2023. <https://www.natlawreview.com/article/not-so-fast-ab-257-hold-pending-voter-referendum-2024>

<sup>4</sup> National Restaurant Association. "Maintaining the Tip Credit and Tipping System is Critical for Employee Earnings and Restaurant Growth." January 20, 2023. <https://restaurant.org/nra/media/downloads/pdfs/advocacy/tip-credit.pdf>

<sup>5</sup> Portland Press Herald. "Commentary: Nominee to head federal Department of Labor has it wrong on tipping." April 10, 2023. <https://www.pressherald.com/2023/04/10/commentary-nominee-to-head-federal-department-of-labor-has-it-wrong-on-tipping/>

<sup>6</sup> ABC News. "CA EDD admits paying as much as \$31 billion in unemployment funds to criminals." January 25, 2021. <https://abc7news.com/california-edd-unemployment-fraud-ca-scam-insurance/10011810/>

<sup>7</sup> Bloomberg Tax "California Employment Department Issues Income Tax Information on Federal Unemployment Tax Act for 2022 Wages." October 31, 2022. <https://shorturl.at/kmpAZ>

Chairman Sanders  
Ranking Member Cassidy  
April 20, 2023  
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The restaurant industry faces several challenges, including a labor shortage, inflationary pressures, and supply chain disruptions. These challenges are especially acute as restaurants settle into a new normal following the COVID-19 pandemic. The policies Ms. Su supports would devastate the restaurant industry and the millions of hard-working individuals who go to work at restaurants every day. Consequently, we urge you to oppose her nomination for Secretary of Labor. We are committed to working with the Department of Labor to find solutions that support our employees' well-being and our industry's success. We hope to have a partner in this effort who understands the unique challenges we face.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in black ink that reads "Sean Kennedy". The signature is written in a cursive style with a large initial "S".

Sean Kennedy  
Executive Vice President for Public Affairs

KEVIN KILEY  
3RD DISTRICT, CALIFORNIA  
HOUSE COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
CHAIRMAN  
SUBCOMMITTEE ON  
WORKFORCE PROTECTIONS

Congress of the United States  
House of Representatives  
Washington, DC 20515-0503

1032 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0503  
(202) 225-2523  
HOUSE COMMITTEE ON JUDICIARY

February 17, 2023

President Joe Biden  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear President Biden,

We understand from numerous news reports that Secretary of Labor Marty Walsh intends to leave his post very soon. We wish to express our strong opposition to nominating Deputy Secretary of Labor Julie Su, to succeed Mr. Walsh as Secretary of Labor.

From 2017-2019 Deputy Secretary Su served as California Labor Secretary. During Ms. Su's tenure she oversaw two highly damaging labor actions: (1) allowed one of the largest cases of unemployment insurance fraud to occur and (2) implemented one of the most destructive labor policies in decades.

**Fraud showing the highest degree of negligence**

According to numerous reports, the California agency responsible for the unemployment compensation program admitted to improperly paying out at least \$32 billion in jobless benefits ([\\$32 billion in EDD fraud](#)), some of it going to incarcerated individuals. What is most infuriating about this situation is it could easily have been prevented had the state implemented proper fraud prevention systems. Instead, the state of California determined that several million dollars per year price tag for these systems was too expensive.

And while the state stood by twiddling its thumbs and \$32 billion in fraudulent payments were being sent to individuals who did not qualify for the assistance, those who were eligible and truly needed the help did not receive payments in time for months on end.

In late April, one of our delegation offices received a call from a woman named Emily who was inconsolable, saying she was on the brink of giving up hope. She was out of work and her EDD claim had been pending for a month. She had no money, no way to pay her bills or put food on the table. We would later learn the agency had made a basic processing error, denying her claim and not even telling her. Further, an August 8, 2022 article in the *Sacramento Bee* noted that "payments were delayed for about 5 million workers during the Covid pandemic that began in March 2020. An estimated 1 million people had their benefits improperly denied" (<https://amp.sacbee.com/news/politics-government/capitol-alert/article264295806.html>).

These are just some of the heartbreaking stories that we are hearing from our constituents caused by mismanagement of these EDD funds.

**Damage to the livelihoods of hard-working Americans**

A second and equally appalling black eye is that Deputy Secretary Su also supported California's AB5, a law that makes it nearly impossible for independent contractors to operate in the state of California due to impossible standards used to determine employee versus contracted employee. This single ill-conceived action of the California legislature, supported by Deputy Secretary Su, has cost tens of thousands of freelance workers and independent contractors their economic livelihoods

Either of these two situations should be an automatic disqualifier for anyone nominated to head the U.S. Department of Labor. But together, these two situations scream "incompetence."

We urge you not to nominate Julie Su to be the next Secretary of Labor.

Sincerely,



Kevin Kiley  
Member of Congress



Jay Obernolte  
Member of Congress



Tom McClintock  
Member of Congress



Mike Garcia  
Member of Congress



Darrell Issa  
Member of Congress



Young Kim  
Member of Congress



Ken Calvert  
Member of Congress



**Owner-Operator Independent Drivers Association**

**National Headquarters:** 1 NW OOIDA Drive, Grain Valley, MO 64029  
Tel: (816) 229-5791 Fax: (816) 427-4468

**Washington Office:** 1100 New Jersey Ave. SE, Washington, DC 20003  
Tel: (202) 347-2007 Fax: (202) 347-2008

March 3, 2023

The Honorable Bernie Sanders  
Chairman  
Committee on Health, Education,  
Labor, & Pensions  
U.S. Senate  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
Committee on Health, Education,  
Labor, & Pensions  
U.S. Senate  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

The Owner-Operator Independent Drivers Association represents 150,000 owner-operators leased to motor carriers, small-business motor carriers with their own operating authority, and employee truck drivers. We oppose Ms. Julie Su's nomination to lead the Department of Labor and the Senate Committee on Health, Education, Labor, & Pensions must reject her nomination in order to protect the livelihoods and careers of the hard-working truckers we represent. Her record as California Labor Commissioner and Secretary for the California Labor and Workforce Development Agency, including her support for AB5 and overseeing its disastrous implementation, demonstrates she would pursue policies that threaten our members' ability to use a business model they have properly and beneficially used for decades.

AB5 in California, which implements the ABC Test to classify workers, essentially requires that an owner-operator working with a carrier through a lease agreement must be classified as an employee. This is contrary to decades of practice as well as federal laws and regulations that allow for owner-operators to be independent contractors. This is the most disruptive worker classification policy to be enacted anywhere at the state or federal level.

When asked about AB5 in an interview, Ms. Su responded that it was meant to address misclassification that has "resulted in the day labor-ization of our economy." She continued, "Instead of the steady, consistent, reliable work, people end up basically in odd jobs and you're hustling all the time, right? So AB 5 is meant to address that kind of misclassification so that we can bring more people who should be under the protection of our labor laws back on that floor."<sup>1</sup>

These comments demonstrate either an ignorance of the owner-operator model in trucking or an overly broad generalization of how different workers operate as independent contractors. For the tens

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<sup>1</sup> Judy Lin, "CA's Labor Chief Wants the Jobs of the Future - and She Wants Them to Cut Inequality," CalMatters, October 16, 2019, <https://calmatters.org/economy/2019/10/california-labor-chief-jobs-future-income-inequality-julie-su-ab5-gig-economy-unions/>.

of thousands of truckers who have enjoyed a successful career as an owner-operator, it would come as a surprise to learn that their business represents an “odd job” in need of fixing.

It has been frustrating enough for small-business truckers that the California legislature ignored their concerns when enacting AB5. But the implementation of the law has been just as, if not more, disappointing. For months after the law was enacted, OOIDA sought guidance about how the law would apply in the trucking industry and how small businesses and independent contractors could potentially comply. Despite our efforts, we were left with essentially no guidance before the law took effect. The law and its haphazard rollout has forced independent contractor truckers to leave the state of California, become an employee, attempt to reconfigure their business, operate under a cloud of uncertainty, or abandon the trucking profession altogether.

For these reasons, we are concerned that Ms. Su would continue to pursue an ideologically-motivated agenda towards worker classification that ignores the thousands of small-business truckers that depend on the ability to work as an independent contractor. Make no mistake, if Ms. Su were to advance the same policies that she championed in California, it would force hundreds of thousands of truckers to change their business model and put their livelihood in jeopardy. We are especially concerned with her nomination at a time when the Department of Labor is working on an updated worker classification rule. There is the potential for this rule to make some improvements to worker classification at the federal level, but if Ms. Su is confirmed to lead the Department, we fear that we will see a repeat of what’s happened in California.

Our association is in a unique position to offer an important perspective on labor issues because we are the only trade association dedicated to representing the interests of truckers who make their living out on the road. Unfortunately, these views have been left out of discussions involving worker classification. There is certainly misclassification in trucking, but there is no one-size-fits-all solution to address the problem. We have seen proposals that would implement a much too broad definition of employee and force owner-operators to work as employees, as well as proposals that would allow motor carriers to exert greater control over owner-operators while avoiding scrutiny on the classification issue.

We stand ready to work with Senators to address misclassification and improve working conditions in the trucking industry. But we believe that Ms. Su’s confirmation would make it extremely difficult to fix these issues in a way that benefits America’s truckers.

Thank you,



Todd Spencer  
President & CEO  
Owner-Operator Independent Drivers Association, Inc.

cc: Members of the U.S. Senate



Jade West  
Chief Government Relations Officer

March 14, 2023

Dear Members of the U.S. Senate Committee on Health, Education, Labor and Pensions:

I am writing on behalf of the National Association of Wholesaler-Distributors (NAW) in opposition to the nomination of current U.S. Department of Labor Deputy Secretary Julie A. Su to be Secretary of Labor.

NAW is one of America's leading trade associations, representing the \$8.2 trillion wholesale distribution industry. Founded in 1946, NAW is comprised of national, regional, and state employers of all sizes as well as industry trade associations, partners, and stakeholders spanning all sectors of distribution. Our industry employs almost 6 million workers throughout the United States and accounts for one-third of the United States gross domestic product. There are 35,000 wholesale distribution companies that operate nearly 150,000 places of business across North America, including all 50 states. NAW members support millions of reliable jobs paying average non-supervisory wages of more than \$30 per hour.

We believe that Ms. Su's record both in her current role and as Secretary for the California Labor and Workforce Development Agency requires significant scrutiny, and, as a result of her record, NAW emphatically opposes the nomination of Ms. Su and urges you to vote against this divisive nominee.

During her tenure in California, Ms. Su oversaw what some have called the most fraud-plagued unemployment program in the country which, according to her own admission, paid out at least \$31 billion in fraudulent claims. Furthermore, Ms. Su was one of the architects of California's Assembly Bill 5 (AB5), a law that attempted to make it nearly impossible for a worker to be classified as an independent contractor by imposing an "ABC test." AB5 may be one of the most flawed business legislative initiatives in recent memory. The legislation has been so difficult to implement due to its flaws that the California state legislature and the Governor were forced to enact multiple new laws to exempt over 100 occupations, and was so unpopular that 59% of California voters voted via a ballot measure to roll back other provisions in the law.

In 2021, while Ms. Su still served the people of California, the Mercatus Center at George Mason University found that California had the highest regulatory burden in the nation and ranked first in the nation for highest occupational licensure burden. Even with high hourly wages and generous benefits, wholesaler-distributors are still struggling to fill many roles. A Department of Labor led by Ms. Su would likely increase unnecessary and burdensome regulations that could significantly raise employer costs.

NAW urges you to reject the nomination of Su, and instead urge President Joseph R. Biden to nominate an individual who will both be capable of managing the department and willing to consider how regulations will impact both employers and employees alike.

Sincerely,

A handwritten signature in black ink that reads 'Jade West'. The signature is written in a cursive, flowing style.

Jade West  
Chief Government Relations Officer  
National Association of Wholesaler-Distributors

**NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS**



March 15, 2023

The Honorable Bernie Sanders  
 Chair  
 Committee on Health, Education, Labor  
 & Pensions  
 United States Senate  
 Washington, DC 20510

The Honorable Bill Cassidy  
 Ranking Member  
 Committee on Health, Education, Labor  
 & Pensions  
 United States Senate  
 Washington, DC 20510

**RE: Nomination of Julie Su for U.S. Secretary of Labor**

Dear Chair Sanders and Ranking Member Cassidy:

As you weigh Julie Su's nomination to serve as U.S. Secretary of Labor, we request you consider the impact this decision has on our industry and its mission to deliver for the American people. Our trucking workforce is the supply chain's most vital asset, and the Labor Secretary holds enormous influence over how it operates and to what effect.

More than 80% of U.S. communities rely entirely on trucking to meet their freight needs, and our industry moves 72.2% of the economy's total tonnage each year. Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today. The moment that slows or stops, the American people—your constituents—will want answers.

We are concerned by Ms. Su's public position on key issues, most notably her leading opposition to the right of drivers to operate as independent contractors—a cornerstone of trucking. For 90 years, the economy and supply chain has benefited from the power of individuals to run their own trucking businesses. More than 90 percent of motor carriers operate six trucks or fewer, many of whom started as independent owner-operators and continue to operate in that capacity.

The freight economy is highly cyclical with seasonal surges and variability in consumer demand. At the same time, we face chronic shortages of equipment and other resources. Our ability to successfully meet consumer expectations and the needs of families, businesses, and entire economic sectors is only made possible with the support of independent contractors.

Economic opportunities as owner-operators in trucking have also been a source of empowerment for women, minorities, and immigrants. Sikh drivers in northern California and Somali drivers in Minnesota are but two vibrant communities that have realized their piece of the American Dream as trucking entrepreneurs. They are as much a part of the trucking industry and supply chain as any employee driver.

California's AB5, which Ms. Su helped pass and implement as Secretary of the California Labor and Workforce Development Agency, essentially outlaws their business model. AB5 is designed to strip independent drivers of their choice and right to operate as contractors for motor carriers, in essence forcing them to become company employee drivers. It is wreaking havoc on thousands of self-employed, small-business owners by forcing them into legal limbo and placing administrative, compliance, legal and

other unsustainable costs on the industry. As a result, families are leaving California to preserve their businesses, incomes, way of life, and choice to earn on their own terms as part of the American dream.

This destructive policy failure is weakening the supply chain and threatens systemic disruptions nationwide if the federal government chooses a similar policy. We are thus gravely concerned by the notice of proposed rulemaking published by USDOL's Wage and Hour Division in October because it is very likely to have a similar effect to California's AB5 if the proposal stands. Without the hundreds of thousands of independent owner-operators in our industry today, the supply chain would grind to an immediate halt, and a way of life of hundreds of thousands of small business men and women could be eradicated.

Ms. Su has significant authority over the rulemaking process as Deputy Secretary of Labor and will have almost complete authority to write the final rule should she be confirmed as Labor Secretary. Accordingly, we believe her answers to the following questions are extremely relevant as you consider her nomination.

1. Do you consider AB5 a policy success generally, and specifically as it relates to trucking?
2. What is your message to self-employed truckers who were forced by AB5 to leave California to save their business, income, lifestyle, and freedom to earn a living on their own terms?
3. Many ICs choose to operate independently so they can determine their own schedules, grow their earning potential, and achieve their desired level of work / life balance. Why should they be denied that right to choose their own career path?
4. Do you believe that the USDOL should consider contractual safety requirements between a motor carrier and an IC as evidence of misclassification and a violation of the Fair Labor Standards Act?

Please do not hesitate to contact me to discuss these issues in greater detail either publicly or privately. It would also be our honor to introduce you to small-business truck drivers who can share their personal stories and explain why these growing attacks on their business model present an existential threat to their livelihoods.

Sincerely,



Chris Spear  
President & CEO  
American Trucking Associations

CC: Members of the Senate Committee on Health, Education, Labor & Pensions

March 17, 2023

The Honorable Bernie Sanders  
 Chairman  
 Committee on Health, Education, Labor and  
 Pensions  
 U.S. Senate  
 Washington, D.C. 20510

The Honorable Bill Cassidy  
 Ranking Member  
 Committee on Health, Education, Labor and  
 Pensions  
 U.S. Senate  
 Washington, D.C. 20510

Dear Sens. Sanders and Cassidy:

On behalf of the International Franchise Association (IFA), I write to express opposition to the nomination of Deputy Secretary Julie Su to be Secretary of Labor. Our members have significant concerns about Ms. Su's ability to perform this critical role without bias to the franchise business model—an important engine in the U.S. economy.

IFA is the world's oldest and largest organization representing franchising worldwide. Our organization protects, enhances, and promotes the franchise business model, helping both franchisees and franchisors thrive in their local communities across the nation and around the globe. As you may know, the U.S. is home to more than 790,000 franchise establishments across more than 300 different business format categories. Those establishments support over 8.4 million direct jobs, provide \$825.4 billion of economic output for the U.S. economy, and equate to almost 3 percent of the Gross Domestic Product (GDP).<sup>1</sup> Franchising is found in every community across the country, and IFA members are proud to deliver critical goods and services to our neighbors each day.

Franchising enhances the prosperity of America's workers through competitive wages, skills training, and career growth from entry level to management. In fact, according to Oxford Economics, franchise small businesses pay 2.2-3.4% higher wages than non-franchise businesses, and more than 65% of franchise workers are offered health insurance—a greater percentage than among small establishments in general.<sup>2</sup> Moreover, franchise businesses are owned by a higher percentage of People of Color and other underrepresented communities than non-franchise businesses.<sup>3</sup> Franchises provide to people of all backgrounds the entrepreneurial opportunities that senators can support.

Because of the substantial role of franchising in the U.S. economy and in communities across the country, IFA members have a compelling interest in—and may be dramatically affected by—the Administration's choice for Secretary of Labor. Local franchise businesses regularly engage with the Department of Labor and work each day to meet their obligations under the Fair Labor

<sup>1</sup> International Franchise Association. *2022 Franchising Economic Outlook*. Pg. 2, Fig. "Franchise Business Economic Outlook: 2018-2022." <https://www.franchise.org/sites/default/files/2022-02/2022%20Franchising%20Economic%20Outlook.pdf>

<sup>2</sup> Oxford Economics. *The Value of Franchising*. Pg. 4. [https://openforopportunity.com/wp-content/uploads/2021/09/IFA\\_The-Value-of-Franchising\\_Sep2021.pdf](https://openforopportunity.com/wp-content/uploads/2021/09/IFA_The-Value-of-Franchising_Sep2021.pdf)

<sup>3</sup> Oxford Economics. *The Value of Franchising*. Pg. 21, Fig. 8. [https://openforopportunity.com/wp-content/uploads/2021/09/IFA\\_The-Value-of-Franchising\\_Sep2021.pdf](https://openforopportunity.com/wp-content/uploads/2021/09/IFA_The-Value-of-Franchising_Sep2021.pdf)

Standards Act (FLSA), the Occupational Safety and Health Act, and other laws under the Department's jurisdiction.

Unfortunately, Julie Su has used public office to advance policies that would harm franchising. As Secretary of the California Labor and Workforce Development Agency, Ms. Su supported California's Assembly Bill 5 (A.B. 5), legislation that upended the use of independent contracting in the state, threatening millions of independent workers and the right to pursue the livelihood of their choice. A.B. 5 was poorly conceived, requiring the state legislature to revise the law with over one hundred exceptions and carve outs after its passage, and California voters ultimately rejected the law by overwhelmingly supporting a 2020 statewide ballot effort to curtail it.

Ms. Su also aggressively supported the imbalanced "FAST Recovery Act," or Assembly Bill 257 (A.B. 257), which was signed into law in 2022. This extreme, first-of-its-kind law gives authority to government appointees to decide wages and working conditions at most independently owned, counter-service restaurant franchises across California. In a strong expression of public opposition to the law, over one million Californians signed a petition to reject A.B. 257 in late 2022 and present the law to state voters on the 2024 ballot.<sup>4</sup>

Further, as head of the California Labor and Workforce Development Agency, Ms. Su was responsible for administering California's unemployment insurance program through its Employment Development Department (EDD) at great cost to taxpayers. Ms. Su's mismanagement of EDD is now estimated to have cost California over \$11 billion in fraudulent claims, with billions more estimated to be improperly paid.<sup>5</sup> Under her supervision, EDD stopped determining whether candidates were eligible to receive benefits before distributing them, and ceased to require claimants to certify their eligibility—decisions an independent audit found "compromised the integrity of the program, and may hinder the ability of the department to conduct day-to-day operations in the future." Placing Ms. Su in charge of the federal agency responsible for overseeing the entire nation's unemployment insurance program should be a great concern to senators.

Finally, Ms. Su has made no secret of her disdain for the laws enacted by Congress that, as Deputy Secretary of Labor, she is bound to enforce as written. In 2014, Ms. Su stated that regulators "can't fine people into compliance" but instead should look at "entire industry structures" in a desire to dramatically overhaul workplace protections well beyond what Congress has enacted. Enforcing the law—not creating the law—is precisely the job of the U.S. Secretary of Labor. We are concerned that Ms. Su, as Secretary, would target certain sectors of the economy based, not on the law and the facts on the ground, but on her personal, ideological views of how the American economy should function.

For these reasons, the IFA opposes the Su nomination. Despite being approved for her current role, Deputy Secretary Su and her record should receive renewed scrutiny by the U.S. Senate for

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<sup>4</sup> Axios. "Groundbreaking California fast-food law heads to statewide referendum and big political fight." Jan. 25, 2023.

<sup>5</sup> ABC News. "California paid out \$11 billion in fake jobless claims last year, official says." Jan. 25, 2021. <https://abc7.com/california-edd-fraud-stole-11-billion/10017450/>

the Department's principal role. Last year, the Senate rejected a Department of Labor nominee, David Weil, largely due to his past record of bias against independent contractors and small businesses—views very much like those of Ms. Su's.<sup>6</sup>

The mission of the U.S. Department of Labor is to foster, promote, and develop the welfare of wage earners, job seekers, and retirees. We believe wage earners would be poorly served by a Labor Secretary who is ideologically hostile to wage payers. We recommend rejecting the Su nomination, and we will urge the Administration to nominate a Labor Secretary who will respect the legal bounds of the position and collaborate with, not seek to harm, the small businesses who provide livelihoods to American workers. We pledge to collaborate closely with that person, as we have with former Secretary Marty Walsh.

Sincerely,



Mike Layman  
Senior Vice President  
Government Relations and Public Affairs

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<sup>6</sup> Politico. "How IFA brought down Biden's labor nominee." March 31, 2022.



March 20, 2023

The Honorable Joseph R. Biden  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Biden:

The Department of Labor (“Department” or “DoL”) is considering a regulation that would make substantive changes to the guidance governing worker classification under the Fair Labor Standards Act. Given that the current acting Secretary and nominee, Julie Su, has a history of supporting efforts that undercut the availability of independent work, I write on behalf of Flex requesting that:

- (1) the Department delay action on this proposal until the Senate confirms a Secretary of Labor; and
- (2) Ms. Su explain in detail, up to and through the Senate confirmation process, her plans for finalizing this potential regulation in a manner that protects independent work and avoids the economic turmoil California experienced when she oversaw worker classification as that state’s Labor Secretary.

Flex members efficiently and effectively provide matching services to customers and businesses looking for access to delivery or transportation, offer flexible earning opportunities to workers, and support economic growth in communities across the United States. Unfortunately, the DoL is considering a variety of proposals that could undercut the availability of independent jobs for millions of Americans, impacting families and communities throughout this country.

Given these stakes and the potential for any negatively revised final rule to have far-reaching impact at a time of economic uncertainty, the Department should not finalize its worker classification proposal before having a permanent Secretary who has been confirmed by the U.S. Senate.

We are also concerned that the Administration’s current nominee to lead the Department, Ms. Su: (1) does not fully appreciate the potential impact of policies that undermine independent work on both workers—who appreciate the flexibility, in particular— and those that depend on the services they provide, and (2) has a record indicating an oppositional approach to policymaking that carries real implications as she seeks to be elevated to serve as the Department’s primary policymaker.

App-based platforms have transformed the landscape of today’s workforce. The reality is that millions of app-based earners have chosen a new economic path where people have the means to determine where, when, how often—and with which platforms—they want to earn income. These opportunities have increased the earning power of 23 million people and have brought a significant number of workers off the economic sidelines.

As evidenced by a recent analysis, a national policy narrowing opportunities for independent work across the economy would displace 1.5 million workers—those unable to work as traditional employees—from the labor force, costing an estimated \$31.4 billion in earnings. Policies that would

restrict workers' opportunity to combat inflation and build wealth would be irresponsible and rob millions of Americans of their economic agency.

As California's Secretary of Labor, Ms. Su was significantly involved in the state's AB 5 legislation, which wreaked havoc across multiple industries. If the law had not been eventually amended by ~60% of California voters in a ballot measure, the statute could have undercut more than a million people who choose flexible work. Ms. Su should explain to the American people how she plans to avoid similar policies as head of the DoL, which could lead to upheaval that is national in scope.

Furthermore, the next Labor Secretary should enact policies that enable workers and businesses to thrive. Cultivating a track record of treating all stakeholders fairly and all policy decisions with an open mind should be prerequisites to serve as the Department's leader. Yet the views Ms. Su espoused—and policy actions she took—towards app-based platform work in California have the potential to drastically undermine the earning power and economic choices of 23 million American workers—parents, veterans, students, caregivers and many others.

To that end, we ask that throughout the Senate Committee process Ms. Su clearly articulates and distinguishes her previous California policy priorities from her potential priorities for the U.S. DoL, as those she pursued during her tenure as California Secretary of Labor, if enacted at the federal level, would harm this diverse group of independent entrepreneurs and so that stakeholders can properly evaluate their position on her nomination.

Sincerely,



Kristin Sharp  
CEO, Flex

CC:

The Honorable Chuck Schumer, Majority Leader, U.S. Senate  
The Honorable Mitch McConnell, Minority Leader, U.S. Senate  
The Honorable Kevin McCarthy, Speaker, U.S. House of Representatives  
The Honorable Hakeem Jeffries, Democratic Leader, U.S. House of Representatives  
The Honorable Bernie Sanders, Chairman, Senate Committee on Health, Education, Labor and Pensions  
The Honorable Bill Cassidy, Ranking Member, Senate Committee on Health, Education, Labor and Pensions  
The Honorable Shalanda Young, Director, Office of Management and Budget  
Lael Brainard, Director, National Economic Council

March 30, 2023

Senator Bernie Sanders  
Chair  
Senate HELP Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

Senator Bill Cassidy  
Ranking Member  
Senate HELP Committee  
520 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Sanders and Ranking Member Cassidy:

The 32 undersigned organizations write to express our concerns with Secretary of Labor nominee, Julie Su. Ms. Su's track record as California's Secretary of Labor raises legitimate questions about her ability to lead the U.S. Department of Labor ("DOL"), particularly at a time when our country faces supply chain challenges, inflation, and workforce shortages. Moreover, upcoming labor negotiations at the West Coast Ports and elsewhere could, without adequate leadership, effectively shut down our nation's economy. We urge the Committee to examine Ms. Su's record and request that she fully detail her plans to address our nation's challenges in a manner that advances our collective goals of reducing inflation, ensuring stable supply chains, and supporting economic opportunities for employers and employees alike. Confirming a labor secretary with a track record of putting roadblocks in the way of solving the current workforce shortage would negatively affect every American, every business (particularly small businesses), and the economy.

In the coming year, several high-profile, highly consequential labor negotiations will take place, which, if mismanaged, could have devastating consequences for the U.S. economy. Negotiations are currently underway between the Pacific Maritime Association, which represents employers at the nation's West Coast ports, and the International Longshore and Warehouse Union ("ILWU"), which represents more than 22,000 workers at 29 seaports from California to Washington State. Failure to reach an agreement would again devastate the economy. A 10-day lockout in the West Coast ports in 2002 cost the economy an estimated \$1 billion per day.<sup>1</sup> The current talks have been ongoing since May 2022. It is imperative that the Administration provide much-needed leadership in these discussions.

Additionally, on July 31, 2023, the current collective bargaining agreement between UPS and the International Brotherhood of Teamsters, which covers over 340,000 UPS workers, will expire. A strike would cause significant damage to a company that is vital to the nation's supply chain, delivering an average of 28 million packages per day across the world in Q4 of 2022.<sup>2</sup> Again, a failure in these negotiations would negatively impact customers throughout the economy, including businesses of every size, sector, and region.

<sup>1</sup> Stevens, Laura, "West Coast Ports Face Several Months' Backlog," *Wall Street Journal*, February 22, 2015, available at <https://www.wsj.com/articles/with-tentative-labor-deal-reached-west-cost-ports-resume-full-operations-1424630077>.

<sup>2</sup> Piciotto, Rebecca, "UPS and the Teamsters prepare for high-stakes talks with union contract set to expire," CNBC, February 3, 2023, available at <https://www.cnbc.com/2023/02/03/ups-teamsters-labor-fight-union-contract.html>.

In the past, Secretaries of Labor have encouraged settlement where a failure in labor negotiations could have a substantial impact on the economic wellbeing of the nation. For example, Secretary Chao actively engaged parties during the negotiations at the West Coast ports in 2002, as did Secretary Perez in 2015. More recently, in 2022, Secretary Walsh engaged in the negotiations between freight railroad companies and the various unions representing their employees. If handled properly, engagement by Secretaries can facilitate a peaceful resolution. The Committee should seek answers from Ms. Su as to how she will approach these challenges.

The groups listed below are further concerned that when Ms. Su led the California Labor and Workforce Development Agency, she spearheaded initiatives that jeopardized millions of independent contractor relationships. The independent contractor business model has created prosperity for millions of workers and entrepreneurs. In her capacity as the state's chief labor officer, Ms. Su was integral in the formation and implementation of A.B. 5, which codified language that effectively banned such arrangements in California. The law left millions unsure as to whether they could continue to work as self-employed individuals or would have to seek jobs elsewhere. Controversy and chaos ensued, resulting in a patchwork of legislative solutions with over 200 industries and occupations seeking and securing exemptions from the law. Even with the exemptions, the law proved so unpopular that voters of California overwhelmingly rejected it by passing Proposition 22 in 2020.

Su has also supported California's Fast Food Accountability and Standards Recovery Act (or FAST Act), which gives a board of unelected individuals complete autonomy over the fast food industry, including the power to set wages, establish employment conditions, and create new regulations. This law was opposed by the state's own Department of Finance, which stated enforcement would increase government costs and "could lead to a fragmented regulatory and legal environment for employers and raise long-term costs across industries."<sup>3</sup> Fortunately for small businesses and entrepreneurs in the state, implementation was put on hold until the 2024 election after hundreds of thousands of Californians signed petitions disapproving of the law and demanding it be put on the ballot as a referendum.

In 2020, Ms. Su oversaw the implementation of California's emergency COVID-19 workplace safety rule. Without even so much as a notice-and-comment process, she chose to hold employers liable for something they neither caused nor created. Under California's rule, employers were required to provide weekly testing to all employees and paid leave for an infinite duration to any employee who tested positive, regardless of whether they contracted the virus at work or not. The rule California imposed on employers was overly broad, unworkable, burdensome, and wholly unfair. Moreover, the state agencies never produced a single study supporting the notion that employers were contributing to, much less causing, the rampant community spread of COVID-19. In the end, of course, COVID-19 was not a hazard created by the nature of the workplace. California effectively imposed a massive burden on California employers to address a public health crisis.

Ms. Su also led California's Employment Development Department ("EDD") during the

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<sup>3</sup> Department of Finance Bill Analysis, AB 257, June 16, 2022, available at <https://esd.dof.ca.gov/LegAnalysis/getPdf/066D8BA5-C012-ED11-913B-00505685B5D1>.

mismanagement of COVID-19-related unemployment insurance funds. Under Su’s tenure, EDD issued an estimated \$30 billion in fraudulent payments, hundreds of thousands of Californians experienced delays in receiving their benefits, and thousands were improperly denied benefits. The California State Auditor<sup>4</sup> did not equivocate when she said, “EDD’s inefficient processes and lack of advanced planning led to significant delays in its payment of UI claims,” and EDD “compromis[ed] the integrity of the UI program” when it suspended eligibility determinations for benefits. Nearly a year after COVID-19 first emerged in the U.S., EDD still “[had] not yet adopted best practices for managing the call center, leaving it ill prepared to assist Californians effectively.”

In closing, we thank the Committee for your consideration of this nomination. Again, we urge the Committee to explore Ms. Su’s record as a regulator of California employers in detail. Moreover, we request that you seek answers as to how she intends to resolve the pending labor negotiations and work with employers and employees alike to best achieve our shared economic goals.

Sincerely,

Air Conditioning Contractors of America  
 American Hotel & Lodging Association  
 American Trucking Associations  
 Americans for Tax Reform  
 Associated Builders and Contractors  
 Association Of Bi-State Motor Carriers  
 Center for the Defense of Free Enterprise  
 Coalition of Franchisee Associations  
 Consumer Technology Association  
 Franchise Business Services  
 Heating, Air-conditioning, & Refrigeration Distributors International  
 Independent Bakers Association  
 Independent Electrical Contractors  
 Institute for the American Worker  
 International Franchise Association  
 International Warehouse Logistics Association (IWLA)  
 IPSE (Independent Professionals and Self-Employed) Association  
 Leading Builders of America  
 National Armored Car Association  
 National Association of Home Builders  
 National Association of Wholesaler-Distributors  
 National Council of Chain Restaurants  
 National Federation of Independent Business  
 National Franchise Association  
 National Grocers Association  
 National Ready Mixed Concrete Association  
 National Restaurant Association

<sup>4</sup> Letter from California State Auditor to Governor and Legislative Leaders, January 256, 2021, available at <https://www.auditor.ca.gov/reports/2020-128and628.1/index.html>.

National Retail Federation  
Open Competition Center  
Small Business & Entrepreneurship Council  
Workforce Fairness Institute  
Workplace Policy Institute

CC:  
U.S. Senate Majority Leader Chuck Schumer  
U.S. Senate Minority Leader Mitch McConnell  
U.S. House of Representative Speaker Kevin McCarthy  
U.S. House of Representative Minority Leader Hakeem Jeffries

**Congress of the United States**  
Washington, DC 20515

April 6, 2023

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20050

Dear President Biden:

On March 11, Secretary of Labor Martin J. Walsh resigned from federal service—leaving Acting Secretary of Labor Julie Su as the *de facto* head of the U.S. Department of Labor (DOL) until a new Secretary of Labor is sworn in.<sup>1</sup> You have nominated Acting Secretary Su to become the next Secretary of Labor.<sup>2</sup> We are deeply concerned by the prospect of Ms. Su serving as the head of DOL on an acting basis or as the Secretary of Labor.

Ms. Su’s record as Secretary of California’s Labor and Workforce Development Agency (LWDA) includes failing to prevent fraud in the state’s unemployment insurance (UI) system, resulting in billions of misspent taxpayer dollars,<sup>3</sup> and promoting radical policies such as California Assembly Bill 5 (AB-5) that imposes a rigid worker classification test which restricts Americans’ right to work as independent contractors and weakens supply chains. Similar actions at the federal level would be a disaster for workers and our economy. Accordingly, we will closely monitor her tenure as Acting Secretary of Labor, and we will strongly oppose her confirmation by the Senate.

As the head of LWDA, Ms. Su oversaw the Employment Development Department (EDD), which manages UI claims and other benefits programs for the state. In that role, Ms. Su presided over severe operational failures at EDD. A January 2021 report issued by the California State Auditor found significant weaknesses in EDD’s approach to fraud prevention, which led to billions of dollars in improper UI benefit payments.<sup>4</sup> According to the report, EDD paid \$10.4 billion on claims that it later determined may be fraudulent. The report specifically stated that \$1 billion of this \$10.4 billion was due in part to a decision to streamline EDD’s process by removing a basic safeguard against paying individuals with unconfirmed identities. As explained by the state’s auditor, “because the EDD leadership who made these decisions did not adequately understand how the stop payments worked, EDD waived the barriers to payment for almost 77,000 claims and paid more than \$1 billion on claims that it has determined are potentially

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<sup>1</sup> DOL, OFF. OF THE SEC’Y, ACTING SEC’Y JULIE A. SU, <https://www.dol.gov/agencies/osec>.

<sup>2</sup> Release, The White House, President Biden Nominates Julie Su for Secretary of the Department of Labor (Feb. 28, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/28/president-biden-nominates-julie-su-for-secretary-of-the-department-of-labor/>.

<sup>3</sup> AUDITOR OF THE STATE OF CAL., SIGNIFICANT WEAKNESSES IN EDD’S APPROACH TO FRAUD PREVENTION HAVE LED TO BILLIONS OF DOLLARS IN IMPROPER BENEFIT PAYMENTS (Report No. 2020-628.2) (Jan. 28 2021), <https://www.auditor.ca.gov/reports/2020-628.2/index.html>.

<sup>4</sup> *Id.*

fraudulent.” While EDD later estimated the amount of fraud to be \$20 billion,<sup>5</sup> an analysis from Lexis Nexis Risk Solutions estimated total fraud of \$32.6 billion when other benefit programs administered by EDD were also considered.<sup>6</sup>

Ms. Su demonstrated an inability to ensure taxpayer funds were appropriately spent in California and admitted as much in comments following the January 2021 audit report, stating, “There is no sugarcoating the reality, California did not have enough security measures in place.” Ms. Su admitted that at least 10 percent of the more than \$100 billion in state and federal benefits EDD paid out were fraudulent and added that the final total could be much higher. Ms. Su put blame on shoddy rulemaking by federal officials but said those failings “do not excuse EDD for being under-prepared.”<sup>7</sup>

Also, during her tenure at LWDA, Ms. Su supported problematic public policies that have only magnified the supply chain crisis in the United States. California law AB-5 implemented a statewide “ABC test” stating that in order to be classified as an independent contractor, the hiring entity of the worker must demonstrate that all of the following conditions are satisfied: a) the person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; b) the person performs work that is outside the usual course of the hiring entity’s business; and c) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.<sup>8</sup> Such a test severely restricts the ability of many types of independent workers, including gig workers, to continue doing the work they wanted, in the way they wanted.<sup>9</sup> In fact, the bill’s passage was so unpopular that lawmakers had to carve out dozens of exemptions to favored industries because the law’s requirements were unworkable and unrealistic in today’s economy.<sup>10</sup> In addition, California voters overwhelmingly supported a ballot initiative called Proposition 22 to roll back the reach of AB-5 further.<sup>11</sup>

Unfortunately, many other industries are still struggling under the new ABC test regime. One example comes from American Trucking Association (ATA) President Chris Spear, who recently underscored these problems in testimony to Congress by highlighting that “these policies not only threaten the supply chain—they rob scores of hardworking entrepreneurs of the choice, dream and freedom to run their own business.”<sup>12</sup> Yet, Ms. Su was and remains a

<sup>5</sup> News Release, EDD, Employment Development Department Issues Unemployment Insurance Program Updates (Oct. 7, 2022), <https://edd.ca.gov/siteassets/files/pdf/news-22-34.pdf>.

<sup>6</sup> David Manoucheri, *Analysis Shows California EDD Fraud At \$32.6 Billion*, KCRA, Oct. 6, 2022, <https://www.kcra.com/article/analysis-edd-fraud-326-billion-and-counting/41281662>.

<sup>7</sup> Dan Walters, *California’s Unemployment Insurance Mess Laid Bare*, CAL MATTERS, Jan. 28, 2021, <https://calmatters.org/commentary/2021/01/californias-unemployment-fraud-political-newsom-julie-su/>.

<sup>8</sup> See 2019 Cal. Assemb. Bill No. 5, § 2750.3.

<sup>9</sup> CAL. LEG. INFO., AB-5 WORKER STATUS: EMPLOYEES AND INDEPENDENT CONTRACTORS (Sept. 19, 2019), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB5](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5).

<sup>10</sup> CAL. LEG. INFO., AB-1561 WORKER CLASSIFICATION: EMPLOYEES AND INDEPENDENT CONTRACTORS (Oct. 1, 2021) [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1561](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1561).

<sup>11</sup> OFFICIAL DECLARATION OF THE VOTE RESULTS ON NOVEMBER 3, 2020, STATE BALLOT MEASURES, <https://elections.cdn.sos.ca.gov/sov/2020-general/sov/official-dec-vote-results-bm.pdf>.

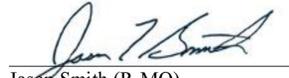
<sup>12</sup> ATA, 4 TAKEAWAYS FROM SPEAR’S CAPITOL HILL TESTIMONY (Feb. 3, 2023), <https://www.trucking.org/news-insights/4-keys-spear-hill-testimony>.

proponent of the ABC test which puts millions of Americans at risk of losing the power to choose when, where, and how to work.<sup>13</sup> As Secretary of Labor, Deputy Secretary Su would oversee the implementation of the final rulemaking that many industry stakeholders have said would harm gig workers and independent, entrepreneurial men and women by severely undermining flexible work arrangements and inappropriately presuming most workers are employees.

At a time when American businesses are struggling with workforce shortages, high inflation, and supply chain disruptions, they need stability from the administration. American taxpayers also deserve accountability. Among the challenges facing DOL at this time is responding to widespread UI fraud across the country—the same challenge plaguing EDD in California. The Labor Department Inspector General recently estimated that improper payments in pandemic unemployment programs nationally totaled at least \$191 billion, with a substantial portion due to fraud. Outside experts put the number much higher at \$400 billion. Yet, so far, only \$5 billion has been recovered.<sup>14</sup>

Because of her misguided record in California, we have major concerns about potential disastrous ramifications at the federal level if Ms. Su becomes Secretary. For these reasons, we request that you withdraw her nomination to serve as your next Secretary of Labor.

Sincerely,




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Jason Smith (R-MO)  
Chairman  
Committee on Ways and Means




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Virginia Foxx (R-NC)  
Chairwoman  
Committee on Education and Workforce




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Kevin McCarthy (R-CA)  
Speaker of the House




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Michelle Steel (R-CA)  
Member of Congress

<sup>13</sup> Sasha Abramsky, *Meet Julie Su, California's Fighter for Workers*, THE NATION, Mar. 9, 2021, <https://www.thenation.com/article/society/labor-su-biden-workers/>.

<sup>14</sup> "All Overpayment Recovery Amounts.xls., 2020-03-01 thru 2022-12-31," U.S. Department of Labor, Employment and Training Administration, UI Payment Integrity Information.

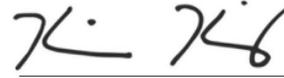
  
Ken Calvert (R-CA)  
Member of Congress

  
John Duarte (R-CA)  
Member of Congress

  
Darrell Issa (R-CA)  
Member of Congress

  
Young Kim (R-CA)  
Member of Congress

  
Tom McClintock (R-CA)  
Member of Congress

  
Kevin Kiley (R-CA)  
Member of Congress

  
Doug LaMalfa (R-CA)  
Member of Congress

  
Jay Obernole (R-CA)  
Member of Congress

  
David Valadao (R-CA)  
Member of Congress

cc: Senator Bernie Sanders, *Chairman, Senate Health, Education, Labor, and Pensions Committee*  
Senator Bill Cassidy, *Ranking Member, Senate Health, Education, Labor, and Pensions Committee*



April 14, 2023

Chairman Bernie Sanders  
 U.S. Senate  
 332 Dirksen Senate Office Building  
 Washington, D.C. 20510

Senator Bill Cassidy  
 U.S. Senate  
 455 Dirksen Senate Office Building  
 Washington, D.C. 20410

Dear Chairman Sanders and Ranking Member Cassidy,

The Air Conditioning Contractors of America (ACCA), the leading national association representing heating, ventilation, air conditioning, and refrigeration (HVAC-R) contractors. Our over 3,000 member companies are recognized as industry leaders and are responsible for \$88 billion in annual sales. They are responsible for designing, installing, and maintaining HVAC-R systems that heat and cool homes, protect our food supply, ensure the possibility of modern medicine, and enable data centers to operate. I am writing to you today to express ACCA's concerns regarding the nomination of Julie Su for Secretary of Labor.

Under Ms. Su's leadership at the California Labor and Workforce Development Agency, she supported initiatives that threatened business models that have created prosperity for millions of workers and entrepreneurs. For example, Su played a significant role in the passage of A.B. 5, which was an attempt to support a wrongly decided court decision. The language embraced in Su's approach would have left millions unsure as to whether they could continue to work as self-employed individuals or would have to seek jobs elsewhere. This led to controversy and chaos, with over 200 industries and occupations seeking and securing exemptions from the law. The law proved so unpopular that voters of California overwhelmingly rejected it by passing Proposition 22 in 2020.

Ms. Su also supported the Fast-Food Accountability and Standards Recovery Act (or FAST Act), which gave unelected individuals complete autonomy over the fast-food industry, including the power to set wages, establish employment conditions, and create new regulations. This law was opposed by the state's Department of Finance, which stated enforcement would increase government costs and "could lead to a fragmented regulatory and legal environment for employers and raise long-term costs across industries."

Moreover, Ms. Su oversaw the implementation of California's emergency COVID-19 workplace safety rule, which unfairly held employers liable for something they neither caused nor created. Under the rule, employers were required to provide weekly testing to all employees and paid leave for an infinite duration to any employee who tested positive, regardless of whether they contracted the virus at work or not. The rule imposed by Ms. Su was overly broad, unworkable, burdensome, and wholly unfair. Ms. Su never produced a single study supporting the notion that employers were contributing to the rampant community spread of COVID-19.

Therefore, before voting on this consequential nomination, we urge the Committee to fully explore Ms. Su's troubling record. We believe it is essential that the Committee thoroughly vet the nominee and demand a full brief of her plans to address the challenges faced by our country, especially those that impact small businesses and entrepreneurs.

Sincerely,

Barton James  
 President & CEO  
 Air Conditioning Contractors of America



April 17, 2023

The Honorable Bernie Sanders  
Chairman  
U.S. Senate Committee on Health, Education,  
Education, Labor and Pensions  
Washington, DC 20510

The Honorable Bill Cassidy  
Ranking Member  
U.S. Senate Committee on Health,  
Labor and Pensions  
Washington, DC 20510

Dear Chairman Sanders, Ranking Member Cassidy and Members of the U.S. Senate Committee on Health, Education, Labor and Pensions:

On behalf of Associated Builders and Contractors, a national trade association with 68 chapters representing more than 22,000 members, I am writing to express our opposition to the nomination of Acting Secretary of Labor Julie A. Su to serve as the next secretary of the U.S. Department of Labor. ABC members have been negatively affected by many of the anti-competitive and anti-growth policies that Acting Secretary of Labor Su has supported at the DOL as well as during her time as secretary of the California Labor and Workforce Development Agency.

As the secretary of the California Labor and Workforce Development Agency, Ms. Su was a leading architect of the state's controversial Assembly Bill 5 that jeopardized the jobs of self-employed construction workers throughout the state. Ms. Su also oversaw an estimated \$30 billion in fraudulent payments of COVID-19-related unemployment insurance funds from California's Employment Development Department, raising alarms for taxpayers and calling into question her qualifications for the highest labor role in the country.

Also concerning for the construction industry was Ms. Su's promotion of so-called "high road employers" for critical housing, energy, climate and water construction projects during her time in California. While it is commendable to attract high-quality employers for construction jobs in the state, ABC members in California found that the "high road" policy effectively created unnecessary barriers to entry and prohibited nonunionized small businesses in the state from participating in these critical projects, regardless of their pay, benefits and safety records. As the federal government seeks to implement more than \$1 trillion in funding for construction projects to modernize our nation's infrastructure, our leaders must advocate for fair and open competition to ensure the most qualified, effective and efficient contractors are able to bid on these projects.

Finally, while at the DOL, Ms. Su has played a significant role in the proposal of new rules and regulations that will cause significant harm to the construction industry, including a disruptive and complex independent contractor rule, a flawed and inflationary prevailing wage rule that would undermine construction industry productivity and the efficient use of skilled labor, and an anticipated change to overtime regulations that could result in

additional uncertainty and exacerbate current workforce and economic challenges facing the construction industry.

Throughout these rulemakings, Ms. Su has shown an unwillingness or inability to consider thoughtful comments from small businesses about their negative impacts. If confirmed to serve as DOL secretary, ABC believes that Ms. Su will continue to move forward these ill-advised rules, which will place an undue burden on many construction contractors, limit their ability to conduct their businesses as they see fit and threaten the jobs of many in the construction industry.

ABC urges members of the Senate HELP Committee to vote against Ms. Su's confirmation and the Biden administration to select a candidate who will commit to commonsense policies and rulemakings to protect our workforce and support our nation's job creators. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Swearingen". The signature is written in a cursive, flowing style.

Kristen Swearingen  
Vice President, Legislative & Political Affairs



334 N. Euclid Avenue • Upland, CA 91786  
(909) 982-9898 • Fax (909) 985-2348  
[www.westrk.org](http://www.westrk.org)

April 18, 2023

The Honorable Bernie Sanders  
Chairman  
Health, Education, Labor, and Pensions Committee  
428 Dirksen Senate Office Building 4  
Washington, D.C. 20510

The Honorable Bill Cassidy  
Ranking Member  
Senate HELP Committee  
28 Dirksen Senate Office Building  
Washington, D.C. 20510

RE: Nomination of Ms. Julie Su to be U.S. Secretary of Labor

The Western States Trucking Association (WSTA) writes this letter to oppose the elevation of Ms. Su to become the U.S. Secretary of Labor.

The WSTA is a California based nonprofit trucking association founded in 1941. Our nearly 1,000-member motor carriers and another 5,000 affiliated motor carriers operate in both intra and interstate commerce. Nearly half of our members are one-truck authorized motor carriers.

As a California based association, we are all too aware of Ms. Su's tenure as California's Labor Secretary and the assault under her leadership on small-businesses and independent contractors. From support of laws such as AB 5 that cripple independent contractors in the trucking industry, to California's disastrous Private Attorneys General Act (PAGA) that allows unscrupulous attorneys to act as labor code enforcers and sue small employers for minor violations of the labor code, her tenure helped turn California into the most business hostile state in the country.

We have numerous members from one-truck operators to small fleets that had enough and moved out-of-state to continue with their business operations free from fear of arbitrary and capricious enforcement activities from California labor agencies.

Independent contractors and small business account for 99.9 percent of all businesses in the U.S. and employ nearly 50 percent of all people working. It is not baseless fearmongering to expect Ms. Su to support as U.S. Labor Secretary policies like California's that would discourage entrepreneurship and growth of small businesses – especially in the trucking sector where the independent contractor is the lifeblood of the supply-chain.

We ask that you deny her nomination to become U.S. Secretary of Labor.

Sincerely,

A handwritten signature in black ink that reads "Lee Brown". The signature is written in a cursive style with a long, sweeping tail.

Lee Brown  
Executive Director/COO  
Western States Trucking Association

April 19, 2023

The Honorable Kyrsten Sinema  
U.S. Senate  
317 Hart Senate Office Building  
Washington D.C. 20510

The Honorable Mark Kelly  
U.S. Senate  
516 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senators Sinema and Kelly:

On behalf of the undersigned Arizona business organizations, we respectfully ask you to oppose the nomination of Julie Su to be Secretary of Labor.

Based on Ms. Su's record in public service, we are deeply concerned about the potential of her leadership of the U.S. Department of Labor, a critical agency that regulates employers and employees in Arizona. During her time as Secretary of the California Labor and Workforce Development Agency, Ms. Su supported a devastating law known as A.B. 5 that threatens the livelihood of independent entrepreneurs and franchisees. Additionally, as Deputy Secretary of Labor, Ms. Su has supported state legislation (A.B. 257) to empower an unelected board of government appointees to dictate the wages and working conditions of independently owned restaurants in California. Although California voters overturned large parts of A.B. 5, we are concerned that Ms. Su would seek to nationalize California's harmful policies, harming independent workers that play a critical role in the Arizona workforce.

Again, we are alarmed that Ms. Su's anti-small business record shows that she will likely stretch the law, rather than enforce the law, as Labor Secretary in a manner that would shutter small businesses and increase costs for consumers, especially as the economy continues to struggle. According to the Small Business Administration, Arizona is home to over 641,025 small businesses, employing 42.5% of the state's workforce. Time and time again, you have stood up for these small employers that keep our state's economy flourishing, and we respectfully ask you to do so again by opposing the nomination of Julie Su to be Secretary of Labor.

Sincerely,

Arizona Builders Alliance  
Arizona Franchise Action Network  
Arizona Lodging & Tourism Association  
Arizona Restaurant Association  
Arizona Transportation Builders Association  
Arizona Trucking Association  
Independent Electrical Contractors of Arizona

April 19, 2023

The Honorable Joe Manchin  
U.S. Senate  
306 Hart Senate Office Building  
Washington D.C. 20510

The Honorable Shelley Moore Capito  
U.S. Senate  
172 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senators Capito and Manchin:

On behalf of the undersigned West Virginia business organizations, we respectfully ask you to oppose the nomination of Julie Su to be Secretary of Labor.

Based on Ms. Su's record in public service, we are deeply concerned about the potential of her leadership of the U.S. Department of Labor, a critical agency that regulates employers and employees in West Virginia. During her time as Secretary of the California Labor and Workforce Development Agency, Ms. Su supported a devastating law known as A.B. 5 that threatens the livelihood of independent entrepreneurs and franchisees. Additionally, as Deputy Secretary of Labor, Ms. Su has supported state legislation (A.B. 257) to empower an unelected board of government appointees to dictate the wages and working conditions of independently owned restaurants in California. Although California voters overturned large parts of A.B. 5, we are concerned that Ms. Su would seek to nationalize California's harmful policies, harming independent workers that play a critical role in the West Virginia workforce.

Again, we are alarmed that Ms. Su's anti-small business record shows that she will likely stretch the law, rather than enforce the law, as Labor Secretary in a manner that would shutter small businesses and increase costs for consumers, especially as the economy continues to struggle. According to the Small Business Administration, West Virginia is home to over 111,000 small businesses, employing 98.8% of the state's workforce. Time and time again, you have stood up for these small employers that keep our state's economy flourishing, and we respectfully ask you to do so again by opposing the nomination of Julie Su to be Secretary of Labor.

Sincerely,

Associated Builders & Contractors - West Virginia Chapter  
Independent Electrical Contractors Chesapeake  
West Virginia Franchise Action Network  
West Virginia Hospitality and Travel Association  
West Virginia Manufacturers Association  
West Virginia Retailers Association  
West Virginia Trucking Association

## QUESTIONS FOR THE RECORD

**U.S. Senate Committee on Health, Education, Labor, and Pensions**  
**Hearing entitled, "Nomination of Julie Su to serve as Secretary of Labor"**  
April 20, 2023

**Senator Bill Cassidy (R-LA)**

1. Ms. Su, in your opinion, what is the proper policy role for the Secretary of Labor in matters of labor-management relations?

*Collective bargaining is a private process between the parties to labor-management negotiations. I believe the role of the Secretary of Labor is to be in touch with the parties to major negotiations and to offer support and encouragement to both parties to work to reach an agreement. The Secretary of Labor cannot be "hands on" in every negotiation but can offer support and encouragement in major negotiations of importance to the national economy. The Federal Mediation and Conciliation Service (FMCS) is the federal agency established by Congress to support parties in negotiations, and FMCS is involved in far more negotiations than the Secretary of Labor.*

2. Ms. Su, can you give the committee your assurances that you will be impartial in regulating and protecting workers who prefer not to affiliate with a union?

*Yes. Federal law gives workers the right to form and join unions and the right to refrain from forming or joining unions. I respect and will follow the law.*

3. Can you give an example of when you acted as a neutral arbiter during your time as Deputy Secretary of Labor?

*I worked side by side with Secretary Walsh in the 20-hour bargaining session that resulted in tentative agreements for the three freight rail unions that had not yet reached agreement with the freight railroads. I acted as a neutral arbiter, trying to help the parties find common ground and reach agreement. We were successful in reaching tentative agreements that were approved by the railroads and by freight rail union leadership. However, two of the agreements were later voted down by the union's membership. Eight of the twelve rail unions reached agreements that were ratified by members.*

4. The position of Deputy Secretary of Labor is not specifically defined. Its role and duties are up to the Secretary of Labor to describe. Can you tell the committee what role you played as Deputy Secretary?

*I served as the chief operating officer of the Department and worked hand in hand with Secretary Walsh to lead a resurgence in workforce training, avert a national rail shutdown, and pursue other DOL accomplishments over the last two years.*

5. Do you plan to accept Representative Virginia Foxx's invitation to testify before the House Education and the Workforce Committee on Wednesday May 17, 2023?
6. If not, why not?

**U.S. Senate Committee on Health, Education, Labor, and Pensions**  
**Hearing entitled, "Nomination of Julie Su to serve as Secretary of Labor"**  
 April 20, 2023

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation, including by testifying in front of relevant committees when appropriate. My staff continues to work with Chairwoman Foxx's staff regarding the timing of that testimony, but I fully intend on testifying before the House Education and Workforce Committee.*

7. Do you plan to testify before the Senate Appropriations Committee on the Department of Labor's Fiscal Year 2023 budget request to Congress?

*Yes, if requested. I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation, including by testifying in front of relevant committees when appropriate.*

8. Do you plan to testify before the Senate Health, Education, Labor & Pensions Committee on the Department of Labor's Fiscal 2023 budget request to Congress?  
 9. If not, why not?

*Yes, if requested. I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation, including by testifying in front of relevant committees when appropriate.*

10. Do you plan to testify before the House Appropriations Committee on the Department of Labor's Fiscal Year 2023 budget request to Congress?  
 11. If not, why not?

*Yes, I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation, including by testifying in front of relevant committees when appropriate.*

12. Why did DOL fail to adhere to the March 30, 2023, deadline included in the bicameral March 16, 2023, letter from Senator Cassidy and Representative Foxx regarding the joint issuance by DOL and OMB of the memorandum entitled "Strengthening Support for Federal Contract Labor Practices"?

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation. I have and will continue to stress that we should respond to all inquiries as promptly as possible. A response to this letter was sent on April 19, 2023.*

13. Will you commit to providing future responses to congressional correspondence within the timelines outlined in future letters?

**U.S. Senate Committee on Health, Education, Labor, and Pensions**  
**Hearing entitled, "Nomination of Julie Su to serve as Secretary of Labor"**  
 April 20, 2023

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation. I have and will continue to stress that we should respond to all inquiries as promptly as possible.*

14. In particular, what involvement did you have in the following matters:
- a. The Wage and Hour Division's effort to rescind the Trump administration's rulemaking on independent contractors;
  - b. The Wage and Hour Division's rescission of the Trump administration's rulemaking on joint employment under the FLSA;
  - c. The Wage and Hour Division's rulemaking to revise the definition of an independent contractor under the FLSA;
  - d. The Wage and Hour Division's expected rulemaking to revise the regulation on when an employee is exempt from being paid overtime under the FLSA;
  - e. OSHA's effort to finalize the COVID-19 ETS for healthcare facilities.
  - f. What policies and approaches used in California would you like to bring to the federal level and the DOL?

*Secretary Walsh and I established an agenda for DOL's component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, OASP, and SOL to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

15. Ms. Su, you've written extensively about the benefits of unions.
- a. In your opinion, what is the role of a union?
  - b. What benefits do unions provide when compared to non-unionized roles?
  - c. Do you agree that labor unions are also prone to coercion and corruption just like large corporations?
  - d. Do you support an individual's right to join or not join a union?
  - e. Do you support right-to-work laws?

*I support strong collective bargaining rights for all workers, but I also recognize that many workplaces are not unionized. Unions represent their members and other workers in a bargaining unit. They work to resolve workplace disputes, negotiate agreements over terms and conditions of employment, and advocate for fair standards and working conditions for all workers. There is a robust literature demonstrating that workers represented by a union enjoy higher pay and better benefits as compared to non-union workers. These benefits are even greater for women workers and workers of color.*

*In addition, unions typically provide through the collective bargaining process a grievance procedure for resolving disputes at the local level without needing to resort to administrative or judicial process. Unions are democratic organizations that are governed by union members. There have been instances of coercion and corruption in labor unions, but the vast majority of unions have not faced these issues. Section 14(b) of the National Labor Relations Act*

**U.S. Senate Committee on Health, Education, Labor, and Pensions**  
**Hearing entitled, “Nomination of Julie Su to serve as Secretary of Labor”**  
 April 20, 2023

*acknowledges the authority of states to adopt laws prohibiting unions and employers from agreeing to “fair share” arrangements whereby all workers covered by a collective bargaining agreement share in the costs of union representation and the benefits of a union contract. I recognize that section 14(b) is the law of the land and will follow it. I am committed to protecting all workers in our economy.*

16. The Partnership for Public Service released the results of a survey on April 13 rating all Federal Government Agencies as the “Best Places to Work.” For mid-size agencies, DOL was 17th out of 27.
- a. What were the factors for such a low rating?
  - b. What steps are you taking, or will you take to improve that rating?
  - c. How many days of the week must employees of the department report for in office work at the Frances Perkins Building?
  - d. How many days on average do you work in the Francis Perkins Building?
  - e. How many days of the week must employees of the department report for in office work in the field offices?
  - f. How many times have you visited a DOL field office?
  - g. What locations?
  - h. For what purpose(s)?
  - i. Do you have additional plans to visit DOL field offices?

*The ranking is based on responses to the Federal Employee Viewpoint Survey (FEVS). I am committed to using the FEVS survey results to continue to improve the experience of Labor Department employees. Understanding how employees perceive the Department, our policies, and procedures is critical in helping prioritize change, including issues like workplace flexibilities. Workplace flexibilities have been an important part of the federal government being able to compete with the private sector for skilled and capable workers, and this became even more true as a result of the COVID-19 pandemic. DOL employees, from mine inspectors to claims examiners, are working tirelessly every day to serve workers in America and fulfill the Department’s mission. Employee engagement is a top priority for me, and I’ve had the privilege of interacting with DOL staff through town halls, visits with staff from Detroit to Nashville, and meetings with DOL affinity groups to discuss issues impacting our workforce and the workers we aim to serve. I am excited to continue to have these opportunities.*

17. Will you commit to providing complete responses—including requested documents and materials—to Congress when requested?

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation. I have and will continue to stress that we should respond to all inquiries as promptly as possible.*

18. When can Congress expect a complete response to the following letters?

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- a. Letters dated November 2, 2021, and February 23 and July 19, 2022, on Secretary of Labor Walsh's inappropriate participation in labor-management issues (request renewed by Chair Foxx on January 12);
- b. A July 21, 2022, letter requesting DOL produce the calendars of senior Department of Labor (DOL) officials (request renewed by Chair Foxx on January 12);
- c. Letters dated October 18 and December 21, 2021, requesting information about DOL's plans for returning to regular, in-person work (request renewed by Chair Foxx on January 12);
- d. Letters dated March 8 and September 30, 2022, requesting information about the White House Task Force on Worker Organizing and Empowerment (request renewed by Chair on January 12);
- e. An October 5, 2022, letter examining the propriety of OSHA's "Workers' Voice Summit" (request renewed by the Chair Foxx on January 12); and,
- f. A March 16, 2023, letter requesting information regarding the joint memorandum "Strengthening Support for Federal Contract Labor Practices."

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation. Regarding the March 16, 2023, letter, a response was sent on April 19, 2023. We have also agreed to produce the senior staff calendars requested by Chair Foxx and hope to begin producing them shortly. In terms of the other letters cited, my understanding is that we provided replies to each one at various points over the last two years, and also responded to Chair Foxx's January 12, 2023 letter renewing those requests. If Chair Foxx has specific follow-up questions related to our initial responses, we would be happy to respond consistent with relevant law and regulation.*

19. Do you intend to accept Chair Foxx's request to testify before the House Committee on Education & the Workforce (dated March 17, 2023)? If not, why not?

*I am committed to ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation, including by testifying in front of relevant committees when appropriate. My staff continues to work with Chair Foxx's staff regarding the timing of that testimony, but I fully intend on testifying before the House Education and Workforce Committee.*

20. In a 2019 interview with CalMatters.org, when describing independent contracting, you state "[i]nstead of the steady, consistent, reliable work, people end up basically in odd jobs and [they're] hustling all the time."<sup>1</sup> Furthermore, in response to Senator Rick Scott's (R-FL) question-for-the-record following your March 21, 2022 confirmation hearing, you also state: "[w]orker misclassification hurts workers, businesses that seek to play by the

<sup>1</sup> <https://calmatters.org/economy/2019/10/california-labor-chief-jobs-future-income-inequality-julie-su-ab5-gig-economy-unions/>.

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rules, and our economy. . . and, that we must address this in order to ensure a level playing field for all workers and businesses.”<sup>2</sup>

- a. When you say misclassification, do you also include the misclassification of an independent contractor as an employee?
- b. Or do you solely mean the misclassification of employees as independent contractors?
- c. In supporting AB 5, can you explain why app-based platforms did not “play by the rules”?

*Misclassification of employees who are entitled to the protections of the FLSA as independent contractors not entitled to those protections often results in violations of the FLSA’s minimum wage and overtime pay protections. Addressing misclassification is important for employers that comply with the law and are at a competitive disadvantage when competing against employers that misclassify employees. The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not the FLSA. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

21. We have heard thousands of first-person anecdotal accounts suggesting that many independent contractors prefer the flexibility and autonomy of the independent contractor model. This suggests that independent contractors are not “misclassified,” but they actually prefer this model over traditional 9-5 jobs.
  - a. Can you explain to us how these employees are “misclassified”?
  - b. Please explain your opinion on why independent contracting isn’t steady, consistent, reliable work?

*Bona fide independent businesses, including independent contractors (those workers who are in business for themselves), have always had a place in our economy and always will. Workers entitled to the protections of the FLSA as employees under the statute are misclassified when they are treated as independent contractors or other non-employees, often resulting in minimum wage and/or overtime pay violations of the act.*

22. It is widely documented that the passage of AB 5 led to a mass exodus of independent contractors from the state of California, in particular owner-operators of trucks, many of whom sought guidance from your office about how the law would apply to the trucking industry, and when AB 5 was being debated, urged against a one-size-fits all solution to address the problem. The California Trucking Association went as far as filing a lawsuit in *Cal. Trucking Ass’n v. Becerra* (S.D. Cal.).
  - a. Trucking is essential to our supply chain. Do you still believe that this industry needs to be re-classified at the national-level?
  - b. If the DOL pursues its proposed worker classification rulemaking, how would you propose solving the driver shortage crisis when independent contractors choose to leave the trucking profession altogether?

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<sup>2</sup> [HELP Republican QFRs for Julie Su -- w Julie Su responses 3.31.2021.pdf](#).

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- c. In your view, why should commercial truckers be viewed as employees rather than independent contractors?
- d. Do you understand that commercial truckers have left the market in California as a result of A.B. 5?

*DOL's proposed independent contractor rule proposes that DOL will rely on the long-standing, multi-factor "economic reality" test used by courts to determine whether a worker is an employee or independent contractor, considering the totality of the circumstances, under the FLSA. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue and represents the direction that DOL proposes to go in on this issue. It does not propose industry-wide reclassification. DOL's proposed rule would, if finalized, align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by federal courts. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule.*

- 23. A recent study by the American Transportation Research Institute found that 73 percent of independent contractor truck drivers expected significant decreases in their job satisfaction if they were to be reclassified as employee drivers. More than 68 percent expected significant decreases in their annual income.

*DOL's proposed independent contractor rule proposes that DOL would rely on the long-standing, multi-factor "economic reality" test used by courts, which considers the totality of the circumstances to determine whether a worker is an employee or independent contractor under the FLSA. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue, and represents the direction that DOL proposes to go in for a final rule. It does not propose industry-wide reclassification. DOL's proposed rule, if finalized, would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by federal courts.*

- 24. Given that both independent contractor and company driver opportunities are available in the trucking industry, why should these independent drivers be required to become employees when they have purposefully declined to pursue such work?

*DOL's proposed independent contractor rule proposes that DOL would rely on the long-standing, multi-factor "economic reality" test used by courts, which considers the totality of circumstances, to determine whether a worker is an employee or independent contractor under the FLSA. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue, and represents the direction that DOL proposes to go in for a final rule. It does not propose industry-wide reclassification. DOL's proposed rule, if finalized, would align DOL's*

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*standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts.*

25. In regards to AB 5, the chair of the American Society of Journalists and Authors, JoBeth McDaniel, told *Forbes* that “in a shrinking media landscape where hiring executives are still mostly white and male, AB 5 places additional restrictions and burdens on women, people of color and the LGBTQ+ community by forcing many of us to seek staff jobs.”
- a. How is the ABC test fair to these individuals?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

26. According to the Small Business Credit Survey, a collaboration of 12 Federal Reserve Banks across the U.S., women and people of color are statistically overrepresented among owners of non-employer businesses.<sup>3</sup> Many owners of non-employer firms are independent contractors.
- a. Were these factors accounted for in AB 5’s implementation?
  - b. If not, why not?
  - c. If two salary households are forced into a W-2 job, they will also have to pay for childcare and commuting costs, which for a family on a tight budget makes all the difference. How does the independent contracting model not afford greater flexibility in that regard?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

27. Following its passage, the California legislature granted more than 100 exemptions to the bill. These exemptions were numerous, and ranged from Little League umpires to marriage therapists to freelance writers to wedding musicians. It is often true of policy that one size does not fit all. AB5 is a perfect example of this.
- a. Ms. Su, are you aware of how many exemptions have been granted because the law would upend legitimate business models?
  - b. How is the necessity of so many exemptions not indicative of a law’s fundamental flaws?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal*

<sup>3</sup> <https://www.fedsmallbusiness.org/survey/2022/2022-report-on-nonemployer-firms>.

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*law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

28. Everyone associated with the Wage and Hour Division's rulemaking on independent contractors has already conceded that DOL cannot do an AB-5 type rulemaking. You are closely associated with the AB-5 approach in California, i.e., all but eliminating the ability of employers to use independent contractors.
- a. Do you think the approach embodied in AB-5 is a good approach?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*I agree with the analysis in the Department's proposed rule on Employee or Independent Contractor Classification under the Fair Labor Standards Act that DOL does not have the authority to implement an ABC test as found in the California state law AB 5. As explained in the proposed rule, the Department believes that it could only implement an ABC test if Congress passes legislation that alters the applicable analysis under the FLSA or if the Supreme Court revisits its precedent.*

29. I am concerned that such a change to the definition of independent contractor would take away the choice that thousands of small business owners have made to operate as independent contractors and could potentially result in the loss of their business equity.
- a. In your view, how can the DOL better protect the rights of traditional independent contractors?

*DOL's proposed independent contractor rule reflects long-standing Department guidance and judicial precedent on this issue and represents the direction that DOL proposes to go in for a final rule. If finalized, it would align DOL's standard for determining independent contractor status with the standard applied by the courts and does not contain an ABC test as found in the California state law AB 5. Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

30. DOL is proposing to remove language from its 2021 Independent Contractor Rule stating that supervision for compliance with outside legal requirements (such as insurance, registration, licensing, etc.) shall not be used as evidence of an employment relationship.
- a. Given that the DOL is proposing to explicitly remove this language from the previous APA rulemaking, what will you do to assure this will not cause confusion and unnecessarily create ambiguity?
- b. Do you agree with the proposed rule?

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- c. Do you think it is practical to require the retaining businesses only retain independent workers who perform work that is of the marginal or no importance to the business?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime. The Department routinely provides user-friendly guidance materials along with final rules to ensure that workers and businesses alike — and especially small businesses — understand their rights and responsibilities under the rules.*

31. In 1947, in *Rutherford Food*, the U.S. Supreme Court held that the economic realities factor of “integration into the business” analyzed the way in which the worker performed the work — was it actually performed in one integrated unit of production with other company employees, or was the work performed separately. The proposed rule rejects the *Rutherford* test, instead asking whether the work performed is critical, necessary or important to the business.
- a. What is the effect of the Biden Administration’s Proposal to interpret “the integrated” into the business factor in this way?
  - b. Is it accurate that this interpretation will prohibit small businesses from contracting with independent workers to perform critical services that they cannot afford on a full or part time employee basis?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The proposed rule included a proposed interpretation of the “integral” factor that is consistent with case law and the Department’s longstanding position prior to the 2021 independent contractor rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule.*

32. In July 2021, a hotel owner from your home state of California testified before this committee and stated: “With both respect and candor, let me say this: the PRO Act is the most anti-small business bill in the history of Congress. With the stroke of a pen upon enactment, the PRO Act’s joint employer and independent contractor provisions alone would steal the American Dream of business ownership from countless entrepreneurs.” Deputy Secretary Su, you support a bill to legislate away the franchise model, the freelance profession, the gig worker community, and many more.
- What do you say to the regulated community about the future of their livelihoods as the Senate considers whether to give you authority over their businesses and incomes?

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*The PRO Act's joint employer provision—if passed by Congress—deals with the National Labor Relations Act, which is enforced by the National Labor Relations Board, not by the Department of Labor.*

33. The AB 5 independent contractor test appears identical to the PRO Act's test, in that both of these regimes create a so-called "ABC" test for determining whether an independent contractor should be considered an employee in law. The one big difference is AB 5 features over 100 industry exemptions. Most architects, accountants, veterinarians, physicians, surgeons, dentists, insurance brokers, lawyers, engineers, direct sales salespeople and many more careers are exempt from AB 5's coverage, which is effectively an admission by the authors of AB5 that the ABC test does not work for dozens of professions. But the PRO Act has no exemptions at all, and if enacted, the PRO Act would demote all of these professions from principals to employees in all of our states.
- a. Deputy Secretary Su, do you support the AB5 test for independent contractor status with its numerous exemptions?
  - b. Do you support the PRO Act's independent contractor test that would effectively demote doctors, lawyers and dozens of other professions from entrepreneur to employee?
  - c. How do you envision independent contractor applies in the construction industry?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*The PRO Act's definition of employee—if passed by Congress—deals with the National Labor Relations Act, which is enforced by the National Labor Relations Board, not by the Department of Labor.*

*DOL's proposed independent contractor rule proposes to rely on the long-standing, multi-factor "economic reality" test used by courts, which considers the totality of the circumstances, to determine whether a worker is an employee or independent contractor under the FLSA. DOL's proposed rule, if finalized, would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts.*

34. The financial services industry largely supported the DOL's proposed independent contractor rule. This support stems from the proposal's recognition that independent contracting can allow entrepreneurial minded financial professionals to operate as a small business through a 1099 relationship with a broker-dealer. It allows an individual to take on all of the responsibilities that go along with being a business owner, while building a lasting, multi-generational legacy for their family.

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- a. Can you commit to finalizing the rule as it was proposed related to the financial sector?

*Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue and represents the direction that DOL proposes to go in for a final rule. If finalized, it would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts. The comment period for the independent contractor proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime.*

35. With over 100 exemptions for various industries, the failure of AB5 shows that there is no one size fits all approach to worker classification and that a multi-factor economic realities test is a better reflection of overall employment status.
- a. Will DOL continue to rely on the longstanding, court-backed economic realities test?

*DOL's proposed independent contractor rule proposes to rely on the long-standing, multi-factor "economic reality" test used by courts, which considers the totality of the circumstances, to determine whether a worker is an employee or independent contractor under the FLSA. Our proposed rule, if finalized, would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts.*

36. California's Assembly Bill 5 significantly limits the ability of independent contractors to operate within the state. Independent contractor drivers are leaving California as a result of AB 5. Although the medium- and long-term economic and workforce impacts of AB 5 remain unknown, the Department of Labor is proposing a similarly restrictive worker classification test at the national level.
- a. Why is DOL pursuing this significant change without first comprehensively assessing the long-term impacts of AB 5?

*DOL's proposed independent contractor rule reflects long-standing Department guidance and judicial precedent on this issue and represents the direction that DOL proposes to go in for a final rule. If finalized, it would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts and does not contain an ABC test as found in the California state law AB 5. I agree with the analysis in the proposed rule that DOL does not have the authority to implement an ABC test as found in the California state law AB 5. As explained in the proposed rule, the Department believes that it could only implement an ABC test if Congress passes legislation that alters the applicable analysis under the FLSA or if the Supreme Court revisits its precedent.*

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37. In 2019, you sided with the union in *Int'l Bhd. of Teamsters, Local 2785 v. Fed. Motor Carrier Safety Admin.* (9th Cir. 2021). The case challenged the Federal Motor Carrier Safety Administration's (FMCSA) authority regarding meal and rest break rules (MRB) for truckers.
- a. Why did you join the petition to ask the Ninth Circuit to overturn the FMCSA's decision on preemption as to truckers re: MRB rules?
  - b. Do you agree with the FMCSA's finding (which the Ninth Circuit affirmed) that enforcement of the MRB rules "would cause an unreasonable burden on interstate commerce?"
  - c. Why or why not?
  - d. Do you agree with the FMCSA's holding (which the Ninth Circuit affirmed) that the evidence showed that enforcement of the MRB rules against truckers would lead to "lost driving time" and therefore "lost productivity" that would "burden interstate commerce?"
  - e. Why or why not?
  - f. In your view, why should the MRB rules be enforced against commercial truckers?
  - g. In your view, should any workers not be subject to the MRB rules?

*The FMCSA's 2018 decision to preempt California's MRBs departed from its prior, decade-long position. Under two different administrations, the FMCSA determined that it lacked authority to preempt California's MRB rules. See Petition for Preemption of California Regulations on Meal Breaks and Rest Breaks for Commercial Motor Vehicle Drivers; Rejection for Failure to Meet Threshold Requirement, 73 Fed. Reg. 79204, 79206 (Dec. 24, 2008) (ruling that the "Agency has no authority to preempt" California's MRBs); Br. for the U.S. as Amicus Curiae in Support of Appellants & Reversal, Dilts v. Penske Logistics, 2014 WL 809150, at \*26-30 (Feb. 18, 2014) (reaffirming FMCSA's 2008 determination).*

*In petitioning for review of the FMCSA's 2018 decision, California disagreed with the FMCSA's determination. California's position is explained in its briefing. See, e.g., Opening Br., Int'l Bhd. of Teamsters, Local 2785 v. Fed. Motor Carrier Safety Admin., 2019 WL 4060575, at \*35-\*41 (Aug. 19, 2019). Under the FMCSA's 2018 determination, California's MRB rules are preempted as to commercial motor vehicle drivers. California law defines the applicability of the state's MRB rules.*

38. After the passage of AB5, Uber Technologies, Postmates Inc. and two gig workers filed the lawsuit *Olson v. California* (9th Cir. Mar. 17, 2023).
- a. Did you have any conversations with Assemblywoman Gonzalez regarding the language of A.B. 5 when it was being drafted?
  - b. If so, can you please describe those conversations?
  - c. Do you agree with the Ninth Circuit that the primary impetus for enacting A.B. 5 was the disfavor that Assemblywoman Gonzalez viewed Uber, Postmates, and other similar gig-based business models?

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- d. Why were certain workers and companies specifically excluded when others were not?
- e. Isn't it true that comparable app-based gig companies were granted an exclusion?
- f. Why was that so?

*I was not involved in this case and therefore cannot comment on it.*

39. The DOL attempted to withdraw the previous administration's independent contractor rule but was prevented from doing so by a federal court. The appeal of that district court ruling has been stayed pending the Department's new rulemaking. That final rule is expected to be issued in May, according to the Administration's Fall Regulatory Agenda.
- a. Are you a supporter of California's AB5?
  - b. Do you favor the ABC test in AB5?
  - c. DOL claims to be using the previous administration's rule now in effect for enforcement purposes. Using that rule, how many cases have been brought against organizations alleging misclassification?
  - d. How many settlements have been achieved?
  - e. What is the total amount recovered?
  - f. How many lawsuits have been brought and what stage are they in?
  - g. Have there been any situations where DOL declined to pursue a claim for misclassification against an organization based on the previous administration's rule, but would have done so under your proposed rule?
  - h. How often did that occur?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully. Since the beginning of this administration, the Wage and Hour Division has concluded over 1,600 investigations where workers met the definition of employee under Fair Labor Standards Act but were misclassified as independent contractors depriving them of minimum wage and overtime pay protections to which they were entitled under the law.*

40. Numerous studies and surveys report that independent workers are paid well over the federal minimum wage, and generally work less than full time, so that minimum wage and overtime protections are not concerns the vast majority of independent workers face.
- a. Given these statistics, why then does the DOL seek to include them within the coverage of the FLSA?
  - b. Does the DOL advance this proposal to frustrate the ability of independent workers to provide services on their terms?
  - c. How will converting these workers to employees impact their availability as service providers to consumers and businesses?
  - d. How will it help them?

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- e. Which industries will suffer the most from worker shortages if workers cannot continue to provide services as independent contractors?

*Under the FLSA, minimum wage, overtime pay, and child labor protections are available only to employees, not independent contractors. The Department's proposed rule on independent contractor status, if finalized, would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts. The Department will carefully consider the comments received in determining next steps in this rulemaking. Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

41. California enacted a law last year, AB-257, titled the "Fast Food Accountability and Standards Act" or the FAST Act, which among other things, claims that the franchise business model is responsible for a disproportionate number of California state labor code and other employment violations.
- Did you ever attempt in your former role as Labor Secretary for the State of California to validate those claims? If so, how? If not, why not?
  - Do you believe them to be true?
  - Do you believe the franchise business model is a source for good or evil?
  - Did you support joint liability by the franchisor for the acts of the franchise as originally contained in AB-257?
  - Do you believe a franchisor is customarily a joint employer of a franchise?
  - California may enact AB-1228, which imposes joint liability by the franchisor for the acts of the franchise for labor code violations and other employment matters. There is a right to cure in the legislation which enables the franchisor to investigate any allegations made and direct the franchise to "cure" the violation. If the franchisor did so, would that investigation and direction to the franchise be evidence of a joint employment relationship?
  - If not, why not?

*I was not in California when AB 257 was enacted, and I have never been a legislator. However, all businesses should operate in compliance with the law.*

42. The USDOL independent contractor classification proposed rule moves from the current two factors with three backup items (if the two are in conflict) to seven equally balanced factors – one of which is a catch-all of anything that comes up in the specific case. That is the opposite of the so-called clarity claimed in the rule and will inevitably clog our judicial system and increase litigation costs for every American business that has any independent contractors if it goes into effect.
- Understanding you would have had to approve the proposal at some point, what was your specific involvement in the policy decisions in the USDOL proposed rulemaking on independent contractor status published last fall?
  - Wouldn't every case have to go to trial with seven equal weight factors?
  - Does such a broad test provide employers and independent contractors or even judges with any clarity?

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- d. Would you agree that this proposal inherently limits the choice of Americans to start a business and work as an independent contractor by making it harder to meet the criteria?

*Secretary Walsh and I established an agenda for our component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, OASP, and SOL to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime.*

43. Somehow the proposed rule suggests that a seven factor equally balanced test, which no court has ever used by the way since the factors were cherry-picked to create a trial lawyer friendly test, is fairer than a two-factor test.
- a. How does DOL argue with a straight face that seven is clearer than two?
  - b. How does a rule that limits opportunity for Americans to set up their own businesses and provide services on their time, to those they choose, meet the DOL's mission statement to "foster, promote, or develop the welfare of wage earners and job seekers and advance their opportunities for profitable employment"?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

44. Would you favor an independent contractor rule that penalizes an entity for requiring proper safety to improve working conditions as a condition of contracting services?
- a. Are you aware of the Occupational Safety and Health Administration's multiemployer citation policy Multi-Employer Citation Policy? Under that policy, an employer at a site with other employers and independent contractors is responsible for not just their employees but also those of other employers.
  - b. Doesn't your proposed IC rule inherently disincentivize proper safety by making any attempt to ensure IC safety results in control for FLSA liability?
  - c. Is it good public policy to make employers choose between their legal safety obligations and wage and hour liability?

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- d. What would you do if you were an employer at a construction site and had independent contractors also present?  
 Would you avoid ensuring everyone’s safety in order to avoid misclassification liability?

*The Department’s proposed rule on independent contractor status would be relevant to the analysis under the Fair Labor Standards Act, not the Occupational Safety and Health Act. The proposed rule would not impact the Multi-Employer Citation Policy or the policies of the Occupational Safety and Health Administration.*

45. Many ICs choose to operate independently so they can determine their own schedules, grow their earning potential, and achieve their desired level of work / life balance.
- a. Why should they be denied that right to choose their own career path?
  - b. Do you believe that the USDOL should consider contractual safety requirements between a motor carrier and an IC as evidence of a violation of the Fair Labor Standards Act?
  - c. Do you believe USDOL should take into consideration if the motor carrier provided safety equipment or training to the IC?
  - d. Does that result in control?
  - e. Is it good public policy to disincentivize safety?
  - f. Are you aware that motor carriers have to monitor their independent contractors under the Federal Motor Carrier Safety Administration Regulations?
  - g. If a governmental entity requires an entity to oversee IC safety and health requirements – whether state or federal – shouldn’t the USDOL specifically carve that out from evidence of control under the FLSA?
  - h. Why are you seeking to rescind the provision in the current rule that specifically exempts safety from being considered an aspect of control under the FLSA?
  - i. Why was it more important for USDOL to do a favor for unions and trial lawyers to create more targets for organizing and lawsuits by proposing this rule under the FLSA over workplace safety generally and more specifically national road safety for the public?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

*DOL’s proposed independent contractor rule proposes to rely on the long-standing, multi-factor “economic reality” test used by courts, which considers the totality of the circumstances, to determine whether a worker is an employee or independent contractor under the FLSA. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue and is the direction DOL proposes to go in for a final rule. If finalized, it would align DOL’s standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts.*

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the*

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*proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

46. On p. 62246 of the NPRM, WHD states “[A]n employer’s compliance with legal obligations, safety or health standards, or requirements to meet contractual or quality control obligations, for example, may in some cases indicate that the employer is exerting control, suggesting that the worker is economically dependent on the employer.”
- a. What cases are those exactly and what data do you have supporting statement? I didn’t see any specifics in the rule. How would an employer know what those cases are or aren’t?
  - b. Is it fair or responsible to make this kind of statement without any explanation?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

47. On the next page, the proposal also states that contracts with ICs that require “compliance with legal, safety, or other obligations... may be evidence that the worker is not in fact in business for themselves because they are not doing the entrepreneurial tasks that suggest that they are responsible for understanding and adhering to the legal and other requirements that apply to the work or services they are performing such that they are assuming the risk of noncompliance.”
- a. Since you approved this proposal and there’s nothing in the published rule to support this statement, can you explain this statement please?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

48. On the same page, the NPRM notes that “[e]mployers may also exercise control in other ways, such as by relying on technology to supervise a workforce, ... or restricting a worker’s ability to work for others—actions that can exert control without the traditional use of direct supervision, assignment, or scheduling.”
- a. Is this your personal view and on what basis did you arrive at it?
  - b. Are you aware that sister agencies, including DOT, require monitoring of independent contractors for safety and that your wage and hour division was informed of this and still made this statement?

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49. Some states have adopted the strictest legal test for defining independent contractor status, commonly referred to as the ABC test. The most notorious of these is the test enacted in California by Assembly Bill 5 (AB 5) in 2019, under which any person providing labor or services for remuneration is presumed to be an employee unless the “hiring entity” demonstrates otherwise. AB 5’s far-reaching scope prompted urgent industry-specific exemptions to be made in the 11th hour, and its enactment has spawned a litany of legal challenges and further industry exemptions that have left employers and workers grappling with complicated compliance questions.
- a. Do you support federal adoption of the same ABC test you promoted in California?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. I agree with the analysis in the proposed rule that DOL does not have the authority to implement an ABC test as found in the California state law AB 5. As explained in the proposed rule, the Department believes that it could only implement an ABC test if Congress passes legislation that alters the applicable analysis under the FLSA or if the Supreme Court revisits its precedent. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

50. During your in-person testimony you stated the ABC test would not be in the DOL regulatory proposal.
- a. Please explain the difference in impact between AB5 and the DOL proposal regardless of differences in legal substance.
- b. Do you think that most independent contractors would prefer to be employees, or do you think they value the freedom to set their own hours?
- c. Can you explain how ride share or delivery services would function if the users of their platform were declared employees?
- d. How would they handle overtime?
- e. How would they handle minimum wage?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

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51. The Department of Labor has issued numerous press releases proclaiming the sums recovered in misclassification cases.
- a. Doesn't this suggest that the Trump independent contractor rule, under which you are operating, is working well?
  - b. If you agree with what's in your own press releases, why are you seeking to change the rule?

*Misclassification of employees as independent contractors hurts workers, businesses that want to play by the rules, and our economy. The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule.*

52. Ms. Su, as you are aware, there are a number of major collective bargaining developments on the horizon this year, including the UPS/Teamster Union contract, the UAW/ major automobile contracts, the continuing West Coast port negotiations, and unresolved issues in the rail industry.
- a. What experience, if any, do you have in representing employers or unions at the bargaining table in major contract negotiations?
  - b. What training and experience, if any, do you have serving as a mediator when parties in collective bargaining reach an impasse?
  - c. Have you ever completed a negotiation to a successful outcome?
  - d. If so, when was the last time that occurred?
  - e. What is the current state of the West Coast port negotiations?
  - f. What is the current state of the rail negotiations?
  - g. As you are aware, a strike in any one of those areas could have a major detrimental impact on our economy. What do you envision a shutdown in the transportation of goods will do to communities throughout the country?
  - h. What plans, if any, do you and this Administration have to avoid major work stoppages in the negotiations I have noted?
  - i. When have you last talked with the Pacific Maritime Association?
  - j. When have you last talked with the International Longshore and Warehouse Union?
  - k. When have you last talked with the Teamsters?
  - l. When have you last talked with UPS?
  - m. When have you last talked with the UAW?
  - n. When have you last talked with the major auto companies known as the "Big Three"?
  - o. Have you met with Shawn Fain?
  - p. If so, when?
  - q. What support did you offer the Pacific Maritime Association?
  - r. What support did you offer the International Longshore and Warehouse Union?
  - s. What support did you offer the Teamsters?
  - t. What support did you offer UPS?
  - u. What support did you offer the UAW?
  - v. What support did you offer the "Big Three"?

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- w. What assurances did you offer the Pacific Maritime Association?
- x. What assurances did you offer the International Longshore and Warehouse Union?
- y. What assurances did you offer the Teamsters?
- z. What assurances did you offer UPS?
- aa. What assurances did you offer UAW?
- bb. What assurances did you offer the "Big Three"?

*I have acted as a neutral convener to help the parties to collective bargaining negotiations in reaching an agreement. I have worked with former Secretary of Labor Marty Walsh in helping the parties to the freight rail negotiations reach tentative agreements, and I have been involved for the past year in supporting the parties to the West Coast port negotiations as they work to reach an agreement. My experience in collective bargaining agreements meets or exceeds that of most past Secretaries of Labor, perhaps with the exception of former Secretary Walsh.*

*Last September, I assisted in helping the parties to the freight rail negotiations reach tentative agreements. Eight of the 12 unions reached agreements that their members ratified; four agreements were rejected. The national freight rail negotiations have concluded. Several unions and freight rail carriers continue to bargain over local issues, including paid sick leave, and approximately 40 percent of freight rail workers now have some paid sick leave as a result of bargaining with individual freight railroads.*

*I have met with auto companies and the UAW in Detroit.*

*In terms of the West Coast port negotiations, the parties are at the table and are making progress in reaching an agreement, as evidenced by the press releases from the ILWU and the PMA last week. I am in regular touch with the parties to encourage them to work to reach an agreement. There is no indication at this time that a strike or lockout is imminent.*

*Before serving as Deputy Secretary and throughout my tenure at the Department, I have on multiple occasions visited the ports, engaged with the parties, and consistently urged them to negotiate, to work to reach an agreement, and have offered my assistance if needed.*

- 53. Many agencies at DOL touch on issues regarding labor unions, including the Occupational Safety and Health Administration (OSHA) and Office of Labor Management Services (OLMS).
  - a. With respect to the OSH Act, what is the Department contemplating regarding nonemployee walkaround inspections at an employer's workplace?
  - b. Will you commit that this initiative will be withdrawn?
  - c. If this initiative is going to be pursued, will you commit that it be put through the formal Administrative Procedure Act notice and comment rulemaking process?
  - d. If the Department goes forward with this proposal, will you commit that any nonemployee engaged in a walkaround role will not include nonemployee union representatives?

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- e. With respect to the Office of Labor Management Services (OLMS), what changes, if any, is the Department contemplating regarding OMLS employer reporting requirements?
- f. Is the Department contemplating changing, in any fashion, current OMLS regulations with respect to employer reporting requirements?
- g. Is the Department contemplating eliminating the "advice exemption" currently in OMLS regulations with respect to employer reporting requirements?
- h. If the Department is considering changing OMLS reporting requirements, please outline with specificity what those proposed changes would be.
- i. If the Department is considering changing OMLS reporting requirements, please outline when they would be put into effect.
- j. Will you commit that any changes being contemplated by OMLS regarding employer reporting requirements be subject to the formal Administrative Procedure Act notice and comments rulemaking requirements?

*If confirmed, I will ensure that all rulemaking that DOL undertakes is done in compliance with the Administrative Procedure Act. OSHA included a Worker Walkaround Representation Designation Process in the proposed rule stage on the Fall 2022 Regulatory Agenda. With respect to the OLMS employer reporting requirements, there are no proposed changes on the Department's regulatory agenda other than the pending NPRM concerning the Form LM-10 as it applies to employers who are Federal contractors filing the LM-10 form.*

54. There is a significant number of collective bargaining agreements that are expired or close to expiring. For example, the West Coast ports are working under an expired agreement. Recently, workers did not report to work in the Long Beach and Los Angeles ports at the cost of \$500M/ per day, according to a National Association of Manufacturers (NAM) study. The agreement covering 380,000 Teamsters with UPS expires on August 1, 2023. The new President of the UAW has publicly branded the U.S.-based auto companies as "the enemy" as it relates to their upcoming negotiations for a contract that expires on Sept 14, 2023.
  - a. How many collective bargaining agreements have you negotiated where you were the chief negotiator and spokesperson?
  - b. With whom?
  - c. For whom?
  - d. In those situations, have you ever been threatened with a strike?
  - e. In those situations, have you ever threatened a strike?
  - f. Have you been asked to mediate any collective bargaining disputes?
  - g. In the railroad situation last year, did you support the President's Emergency Board recommendations that did not include seven extra sick days for workers?
  - h. What steps have you taken with the White House, the Department of Transportation, and/or the Department of Commerce to minimize supply chain disruptions which may occur due to a potential strike by the Teamsters, the UAW or at the ports?
  - i. One major issue in the upcoming UAW negotiations involves displacement of workers due to the transition from combustion transport to EVs. What is your

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plan to facilitate this transition and minimize the pain that occurs from workforce transformation issues such as this?

- j. Were you in favor of shutting down the Keystone Pipeline a few years ago that resulted in many job losses?

*I have acted as a neutral arbiter to help parties to collective bargaining negotiations in reaching an agreement. I have worked with former Secretary of Labor Marty Walsh in helping the parties to the freight rail negotiations reach tentative agreements, and I have been involved for the past year in supporting the parties to the West Coast port negotiations as they work to reach an agreement. My experience in collective bargaining agreements meets or exceeds that of most past Secretaries of Labor, perhaps with the exception of former Secretary Walsh.*

*Last September, I assisted in helping the parties to the freight rail negotiations reach tentative agreements. Eight of the 12 unions reached agreements that their members ratified; four agreements were rejected. The national freight rail negotiations have concluded. Several unions and freight rail carriers continue to bargain over local issues, including paid sick leave, and approximately 40 percent of freight rail workers now have some paid sick leave as a result of bargaining with individual freight railroads.*

*In terms of the West Coast port negotiations, the parties are at the table and are making progress in reaching an agreement, as evidenced by the press releases from the ILWU and the PMA last week. We are in regular touch with the parties to encourage them to continue to work to reach an agreement. There is no indication at this time that a strike or lockout is imminent. I have consistently urged the parties to negotiations to work to reach an agreement and have offered my assistance if needed.*

55. Your publicly posted schedule shows a standing quarterly meeting with SEIU leadership.
- a. What is the purpose of these meetings?
  - b. What do you talk about?
  - c. Did you have such a meeting when you were in office in California?
  - d. Are leaders of the SEIU among your closest advisors?
  - e. Are there minutes from the SEIU meetings?
  - f. If so, please provide them for the record.
  - g. Do any other unions have such a standing meeting with you?
  - h. Do any companies have such a standing meeting with you?

*I believe in meeting with stakeholders on all sides of an issue. During my time as Deputy Secretary and during my time in state government, I have accepted meetings with a range of stakeholders, including representatives of employees and employers, in order to hear from diverse viewpoints. If confirmed, I will continue to have an open door for DOL's stakeholders.*

56. Update on West Coast ports.

- a. Please describe the status of the West Coast port negotiations.
- b. What is the Biden administration's stance on these negotiations?

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- c. Please describe in detail your participation in the West Coast port negotiations this year (2023).
- d. Can you describe the impact of slow walking in these negotiations?
- e. Please define "slow walking."
- f. Can you describe the impact of red tagging on these negotiations?
- g. Please define "red tagging."
- h. Please describe the impact of these ongoing negotiations on consumer prices.
- i. Please describe the daily cost to U.S. GDP of a shutdown of the West Coast ports, particularly in the context of a potential recession.
- j. Please describe the impact of a shutdown of the West Coast ports in terms of potential job loss.
- k. If confirmed, would you be willing to pursue an injunction under the Taft-Hartley Act to ensure continued operation of our supply chain?
- l. In your opinion, when are Taft-Hartley injunctions necessary or appropriate?

*I have been in touch with the parties since before the negotiations started in May 2022. The collective bargaining agreement expired in July 2022. The parties have stayed at the table and are making progress in reaching an agreement. Cargo has continued to move during the bargaining and there have been no strikes or lockout. The parties have expressed that they are committed to reaching an agreement.*

*I traveled to the West Coast ports with former Secretary Walsh on two occasions to meet with the parties. I will continue to engage with the parties to encourage them to work to reach an agreement. I am encouraged by their announcements this week that they have made significant progress.*

57. The Davis-Bacon Act requires most contractors and subcontractors that perform work on federally funded or assisted construction contracts to pay government-determined prevailing wage and benefit rates. Unfortunately, regulations implementing these requirements are inherently flawed and frequently fail to produce accurate, prevailing or timely rates. The Department of Labor's Wage and Hour Division is close to finalizing a proposed rule updating Davis-Bacon regulations, but it fails to address these problems, instead undoing prior reforms, adding red tape and expanding prevailing wage requirements to new industries and workers.
  - a. As Secretary of Labor, will you abandon this unnecessarily burdensome proposed rule and instead pursue much-needed reforms to the Davis-Bacon wage survey process?
  - b. Shouldn't the Department of Labor be promoting policies to make infrastructure less expensive and provide opportunities for more businesses to contract with the government to improve our roads, bridges, affordable housing and utilities?

*The Department issued a comprehensive proposed rule on the Davis-Bacon and Related acts on March 11, 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the Davis-Bacon proposed rule closed on May 17, 2022,*

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*and we received more than 40,000 comments from the public, representing a wide variety of views. The Department carefully considered the comments received in drafting a final rule. The Department has transmitted a draft final rule into interagency review and cannot express a position while the rule is under review.*

58. Office of Labor-Management Standards

- a. Can you explain why OLMS is asking businesses to file persuader reports when they send their own company officers out to their own company facilities to discuss issues related to collective bargaining in this way?
- b. Do you agree that this is a complete change in the interpretation of OLMS' manual?
- c. What policy guidance has the Department developed to justify this novel approach?
- d. Can you tell us what type of information you have been sharing with the NLRB through the Memorandum of Understanding (MOU)?
- e. What information have you received from the NLRB under the auspices of this MOU? Please produce this information for the record.

*Under longstanding policy, OLMS cannot confirm or deny the existence of an investigation. The LMRDA identifies those expenditures that labor organizations, employers, and consultants must report. With respect to employer reporting obligations, expenditures that must be reported are described in Section 203(a) of the LMRDA and OLMS works to ensure that all expenditures identified by the Act are being fully reported.*

*On December 29, 2020, the Department of Labor entered into a Memorandum of Understanding (MOU) with the National Labor Relations Board, Office of General Counsel (NLRB). The MOU provided that "DOL and the NLRB recognize the value to each agency of sharing investigative information as permitted by law. DOL and the NLRB further recognize that certain information maintained may benefit investigative activities of both DOL and the NLRB. The sharing of such information between DOL and the NLRB on a controlled basis facilitates efficient investigations. DOL and the NLRB will execute a formal information sharing agreement at a future date." On November 20, 2021, the parties executed the Memorandum of Agreement (MOA). Under the MOA, the Department and the General Counsel of the NLRB share information developed in their respective investigations that would be helpful to the other Agency's investigations.*

59. According to DOL regulatory agenda, it is planning to change the overtime regulations. Some are concerned that under your leadership, DOL will raise the overtime threshold beyond the current \$684 a week.
- a. Do you ever take into consideration the unintended consequences of a rule?
  - b. Do you ever take into consideration the unintended consequences highlighted by stakeholders?
  - c. Do you take into consideration the lack of flexibility the rule may create?

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- d. Did you personally partake in the DOL listening sessions on the overtime rule?
- e. If so, which ones did you participate in?
- f. If not, why not?

*I strongly believe that engagement is vital to the rulemaking process, and we held over two dozen listening sessions to hear from employers, employees, and other stakeholders, such as business associations. Secretary Walsh and I asked key agency heads, including the then-Acting Administrator of the Wage and Hour Division, the Solicitor of Labor, and the Assistant Secretary for Policy, to convene the sessions on our behalf and to report back regularly. In addition, I asked a member of my own senior staff to join the meetings.*

- 60. The U.S. District Court for the Eastern District of Texas enjoined the Overtime Rule promulgated in 2016 under the Obama Administration, finding that the rule deviated from congressional intent and would have caused irreparable harm, including job loss.
  - a. As Secretary, would you pursue an increase to the overtime pay salary threshold?
  - b. Would such an increase match or exceed levels pursued under the Obama rule?
  - c. Can you explain how such effort would differ from the Obama-era rule?
  - d. Can you explain how a new rule promulgated by this administration would not suffer the same legal fate as the 2016 Obama-era rule?

*To ensure overtime laws reflect the realities of today’s workplace and that federal law provides meaningful protections for workers and their families, we are currently reviewing the Fair Labor Standards Act’s regulations governing the exemption of executive, administrative, and professional employees. The Biden Administration has not published a proposal on this issue, but it is on the DOL’s regulatory agenda. During rulemaking, I would instruct the DOL’s WHD to take into account the views of all stakeholders to help determine the appropriate threshold. This would be done through the notice-and-comment rulemaking process, which has not yet occurred as no proposal has yet been issued. The DOL would consider all stakeholder input received during the notice-and-comment rulemaking process.*

- 61. The Department is also contemplating potential changes in the determination of whether an employee is exempt or nonexempt under the Fair Labor Standards Act.
  - a. Why is this initiative necessary since the exempt/nonexempt cut point was recently changed?
  - b. What minimum salary threshold for overtime eligibility you would support?
  - c. What other changes might you advocate for in subsequent rulemaking?
  - d. Do you believe that the Department of Labor has the authority to include an inflation adjustment in any pending overtime rule?
  - e. When does the Department expect to formally publish this proposed rule?
  - f. Will you commit that any proposed change in this area will not include an increase in the compensation level for exempt status by more than 6% - the current rate of inflation?
  - g. Will you commit that if there is an initiative in this area it will not include a change in the “duties” test, similar to what your home state of California has in its Wage and Hour laws?

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- h. California requires employers to pay overtime to employees after 8 hours of work per day rather than the federal standard of 40 hours per week. Do you think that approach is better?
- i. Why or why not?

*The last overtime rule came out in September 2019, and that rule itself declared that the Department intends to update the operative salary thresholds more regularly in the future. Much has changed in the economy since then. That is why we are listening to people across the country. Recognizing that our economy is always changing, it is important that the adoption and implementation of our laws and regulations reflect our modern economy. This is an issue that, if confirmed, I plan to review carefully. A new effort would require careful analysis examining all the issues mentioned in prior answers. During rulemaking, I would instruct the DOL’s WHD to take into account the views of all stakeholders to help determine the appropriate threshold. This would be done through the notice-and-comment rulemaking process, which has not yet occurred as no proposal has yet been issued. The DOL would consider all stakeholder input received during the notice-and-comment rulemaking process.*

62. You wrote in 2005 that “control over labor will not be proven by a multi-factored test about the relationship one company and its subcontractors,” and advocated that “a new test should be developed that requires an analysis of the industry dynamics and economics as a whole.” You seem to reject the multi-factor test found in the FLSA regulations. As I’m sure you know, the National Labor Relations Board (NLRB), delivered a proposal for determining joint employer status under the National Labor Relations Act (NLRA). This proposal largely resurrects an Obama-era standard of joint employment where one company may be deemed the joint employer of a second company’s employees, even when the first company’s control is not direct. In your writing, you’ve advocated for a new joint employer test.
- a. As Secretary of Labor, would you attempt to resurrect a new joint employer test through rulemaking?
  - b. Is the Department considering changing the joint employer test under the FLSA at any point in the remaining years of this administration?
  - c. Will you commit not to go forward with any change in the joint employer standard under the FLSA?
  - d. Why did DOL rescind the 2020 joint employer rule if it did not plan to promulgate a new standard?
  - e. I am especially concerned with the potential adverse impact on small businesses, including franchisees, if any change in this test is made. Will you commit not to proceed with this proposed change due to its potential adverse impact on small businesses?
  - f. Will you commit not to proceed with this proposed change due to its potential adverse impact on franchisees?
  - g. If any such initiative is pursued by the Department, will you commit that only a direct control test will be utilized before joint employer status could be established?

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*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA’s relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

63. Ms. Su, one of your earliest acts as Deputy Secretary was to issue first an NPRM and then a Final Rule rescinding the Trump-era joint employer rule which would have granted certainty to employers and employees and which has been widely criticized.
- a. Why did you move to rescind the rule before the Second Circuit had an opportunity to weigh in on the appeal?
  - b. Do you agree or disagree that the determination of whether a hiring entity is a joint employer liable for FLSA violations has been applied inconsistently in the past? If so, why?
  - c. Do you agree or disagree that the determination of whether a hiring entity is a joint employer liable for FLSA violations needs greater clarification? If so, why?

*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA’s relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

64. In the Rescission of the joint employment rule, DOL states that the Rule’s vertical joint employment analysis has not afforded clarity. Yet in the same text of the final rule, the Wage and Hour Division cites comments by “[v]arious trade associations, business advocacy organizations, law firms, and individual commenters submitted comments opposing the Department’s proposal to rescind the Joint Employer Rule” in part due to the rule “providing a clearer, common-sense standard for determining joint employer status.”
- a. How do you reconcile contradictions?

*WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. DOL would be happy to brief you and your staff further on these issues.*

65. Perhaps most striking is the warning from the Chamber of Commerce regarding the perils of weighing indirect or reserved control. The Chamber warned that the

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consideration of indirect control not only violates Section 3(d) of the FLSA’s definition of employer as “any person acting directly or indirectly in the interest of an employer in relation to an employee” but that “contractual reservations of control are not probative of the relationship between the employer and the putative employee—the touchstone of the joint employer analysis—if the putative employer never exercises such control.”

- a. Do you agree with this analysis?
- b. Why or why not?

*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA’s relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

66. The Chamber also acknowledged that it is routine for businesses to include clauses in their contracts that require contractors or business partners to meet certain goals and enforce certain criteria regarding their employees, with contingencies for removal of those employees by the primary contractor or complete termination of the contract under certain circumstances. But these contractual reservations of control are not probative of the relationship between the employer and the putative employee – the touchstone of the joint employer analysis – if the putative employer never exercises such control.
  - a. If implemented, how does a joint employer rule that focuses on indirect control not entirely obliterate the distinction between employees and independent contractors?

*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA’s relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL regulatory agenda.*

67. David Weil, the former Obama-era DOL Wage and Hour Administrator, issued an Administrative Interpretation on the standards DOL should apply in evaluating whether a joint employment situation exists.
  - a. Do you agree with the general thrust of Professor Weil’s book the “Fissured Workplace?” If not, why not?

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- b. Do you think that issuance of Administrative Interpretations (AIs) is a proper discretionary step the DOL can take in lieu of engaging in formal rulemaking?
- c. Under what circumstances?
- d. If confirmed, are you contemplating issuing any AIs?
- e. On what topics?
- f. Will you seek any public input before doing so?
- g. Do you believe that companies in a supply chain should be jointly responsible for the violations of others?
- h. Do you anticipate issuing a rule or AI setting forth your views on this issue?
- i. DOL and other agencies have launched an initiative to eliminate child labor violations in supply chains making all companies in the chain responsible. Do you intend to initiate rule making on this topic or an AI?

*Any decision on the use of different forms of guidance, including administrator interpretations, interpretive rules, opinion letters, and other forms of guidance, must be guided by what the law provides the agency discretion in doing, consistent with the Administrative Procedure Act. If confirmed, I would review ways of engaging all parties, including employers, in providing guidance and materials on important issues like employment status. I would be happy to engage your office in this process.*

68. The FTC identifies that one-in-five American workers are governed by a noncompete clause as a condition of their employment. Can the department confirm their estimates are correct?

*No. The DOL does not regularly collect this data. The Bureau of Labor Statistics periodically publishes reports involving more limited data on noncompete agreements.*

69. Did the Federal Trade Commission (FTC) solicit advice from DOL regarding its NPRM on non-compete agreements?

*The FTC is an independent agency over which DOL has no oversight. But the Department and the FTC are both members of the White House Competition Council and regularly engage about areas of mutual concern.*

70. Did the FTC formally request technical assistance from DOL prior to the issuance of the NPRM on non-compete agreements?

*The FTC is an independent agency over which DOL has no oversight. But the Department and the FTC are both members of the White House Competition Council and regularly engage about areas of mutual concern.*

71. Please describe any interaction, whether formal or informal, DOL had with FTC regarding the Commission's NPRM on non-compete agreements.

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*The FTC is an independent agency over which DOL has no oversight. But the Department and the FTC are both members of the White House Competition Council and regularly engage about areas of mutual concern.*

72. Please describe DOL's advice, comments, or any other input offered to FTC regarding the Commission's NPRM on non-compete agreements.

*The FTC is an independent agency over which DOL has no oversight. But the Department and the FTC are both members of the White House Competition Council and regularly engage about areas of mutual concern.*

73. Please describe where any DOL input was accepted in FTC's NPRM on non-compete agreements.

*The FTC is an independent agency over which DOL has no oversight. But the Department and the FTC are both members of the White House Competition Council and regularly engage about areas of mutual concern.*

74. What are your personal views on non-compete agreements?

*I support the Biden-Harris Administration's actions to promote competition and protect workers.*

75. Do you think there are circumstances in which use of a non-compete agreement is appropriate?

*I support the Biden-Harris Administration's actions to promote competition and protect workers.*

76. Do you think a non-compete agreement is appropriate for highly compensated senior executive staff?

*I support the Biden-Harris Administration's actions to promote competition and protect workers.*

77. DOL recently finalized Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States final rule.

- a. What is the adverse effect wage rate (AEWR)?
- b. Do you sympathize with the farmers for whom the rate increase will be disruptive?
- c. Do you sympathize with the American public who will see increased food costs?
- d. When was the last time you personally visited a grocery store?
- e. Have you visited a farm during your time as Deputy Secretary of Labor?
- f. If so, when?
- g. If so, where?

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- h. Did you meet with any agriculture stakeholders prior to the issuance of the AEW rule?
- i. If so, when?
- j. Why has the Department of Labor promulgated an increased AEW that will lead to a decrease in the availability of fresh produce and higher food prices for consumers?
- k. Has the Department of Labor implemented any rules that would lower the food costs for consumers instead of raising it?
- l. How will the increased adverse effect wage rate impact farmers' ability to stay in business?
- m. How can farmers, farm workers, policymakers, and consumers, work together to find a balanced solution to promote fair wages for workers?
- n. How can those stakeholders work together to ensure the sustainability of the agricultural industry?
- o. Why did the AEW need to be changed?
- p. Is the department conducting outreach to stakeholders impacted by the AEW?
- q. What consideration, if any, did the department give to the fact that increasing H-2A costs alongside greater participation means that H-2A wages are on pace to double by 2024?
- r. What consideration, if any, did the department give to the fact that increasing H-2A costs alongside greater participation means that H-2A wages will make up over 29 percent of all farm labor costs?
- s. What consideration, if any, did the department give to the fact that increasing H-2A costs alongside greater participation limits operations and productivity at the farm level?
- t. What consideration, if any, did the department give to the fact that increasing H-2A costs alongside greater participation drives up food's costs for consumers?
- u. Do you support reforming the H-2A program to provide more flexibility for employers, while ensuring critical protections for workers?
- v. Do you support the Farm Workforce Modernization Act?
- w. Do you support modifications that make the H-2A program more responsive?
- x. Do you support modifications that make the H-2A program user-friendly for employers?
- y. Do you support modifications to the H-2A program so it provides access to the program for industries with year-round labor needs?
- z. If confirmed, are you committed to working with the agriculture industry and our farmers and ranchers to ensure we have a sustainable plan to replenish and replace farm workers in the U.S.?
- aa. What is your plan to implement the new H-2A Rule in a way that does not add undue burden on employers for the cost of foreign workers?
- bb. What is your plan to implement the new H-2A Rule in a way that identifies and trains a future domestic workforce?

*The Department is sensitive to the role the H-2A program has in meeting the needs of farmers and growers who produce our nation's crops. As noted in the Department's FY 2023 budget*

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*request, demand for seasonal agricultural labor under the H-2A program has significantly increased in recent years, with the annual number of applications increasing by 202 percent and certified worker positions more than tripling from FY 2012 (85,248) to FY 2021 (317,619). The Department works with H-2A employers to meet the need for agricultural workers while ensuring that the hiring of H-2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed. To protect the wages of workers in the United States, the Department's regulations at 20 CFR 655 subpart B require employers who seek workers through the H-2A program to offer, advertise in their recruitment, and pay a wage that is the highest of the Adverse Effect Wage Rate (AEWR), the prevailing wage, the agreed-upon collective bargaining wage, the Federal minimum wage, or the state minimum wage.*

*The AEWR is the rate the Department has determined is necessary to ensure the employment of H-2A foreign workers will not have an adverse effect on the wages of agricultural workers in the United States similarly employed. Requiring H-2A employers to pay the AEWR to H-2A workers and other workers in corresponding employment when it is the highest applicable wage is the primary way the Department meets its statutory obligation to certify that the employment of H-2A workers will not have an adverse effect on the wages of workers in the United States. Prior to the publication of the recently finalized rule, for non-range occupations the Department set the AEWR for all H-2A job opportunities at the annual average hourly gross wage for field and livestock workers (combined) for the State or region based on the Farm Labor Survey conducted by the U.S. Department of Agriculture's National Agricultural Statistics Service.*

*As explained in detail in its proposed rule, the Department determined that the 2010 Final Rule AEWR methodology's use of the USDA Farm Labor Survey was not the best wage source for certain occupations and for use in certain locations. The Farm Labor Survey does not consistently report wage data for occupations outside the field and livestock workers category and does not report wage data for field and livestock workers (combined) in certain locations, such as Alaska and Puerto Rico. The Department determined that use of the Farm Labor Survey to establish the AEWR in those occupations and locations would not adequately prevent adverse effect on the wages of agricultural workers in the United States similarly employed. The Department therefore engaged in rulemaking to address these concerns with the AEWR methodology.*

*After consideration of comments received, on February 28, 2023, the Department published the final rule, Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States. The final rule implements a methodology that uses wage data reported by the U.S. Department of Agriculture (USDA) Farm Labor Survey (FLS) and the Department's Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) survey depending on the occupation and location of the job opportunity. As noted in the final rule, the Department anticipates the AEWRs for the vast majority of job opportunities will not change under this new methodology. The methodology adopted in this final rule enables the Department to establish appropriate AEWRs in all geographic areas and for all SOC codes in which employers may seek to employ H-2A workers.*

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78. In FY22, DOL received 19,023 applications resulting in 371,619 H-2A certifications. These applications have included broad job descriptions that capture any task that may be performed on the farm. As a result of the increased costs associated with the final rule, the number of applications will increase exponentially as farm employers plan to narrow job descriptions to ensure the most accurate wage rate is applied for that specific contract.
- a. How does the Department plan to ensure timely processing with this certain increased number of filings?
  - b. Did the Department estimate how many filings would occur with the change to this regulation? Please provide the estimate and how it was derived.

*The Department is committed to the effective administration of the H-2A program and is sensitive to the unique challenges facing America's agricultural employers, while remaining committed to its Congressional mandate to protect agricultural workers in the U.S. from adverse effects on their wages or working conditions resulting from the hiring of H-2A workers. Despite unprecedented growth in demand for the program, the Department is committed to the timely processing of H-2A filings and meeting the mandated processing deadline set by Congress in the H-2A program. The Department works hard with resources available to meet this unprecedented demand through (1) efficiencies available in its electronic FLAG processing system, (2) temporarily re-assigning Federal staff from other visa programs, (3) hiring temporary contract staff to help Federal staff review applications, and (4) offering overtime to help boost staff production and meet processing deadlines.*

*DOL's AEWRFinal Rule will revise the methodology for determining the hourly Adverse Effect Wage Rates (AEWR) for non-range agricultural occupations. For the vast majority (approximately 98%) of H-2A job opportunities, DOL will continue to use USDA's FLS as the primary source for the AEWRF. For H-2A job opportunities that do not fall within the FLS' field and livestock worker category (approximately the remaining 2% of H-2A job opportunities), the AEWRFs will be based on occupation-specific wage data from BLS' Occupational Employment and Wage Statistics program. DOL believes that this use of the BLS' Occupational Employment and Wage Statistics data, which was also used in the Department's 2020 AEWRF final rule, is a more accurate data source for those occupations and would help ensure accurate AEWRFs are paid to agricultural workers in generally higher paid occupations, such as supervisors of farm workers, truck drivers, and agricultural construction workers, which are not adequately captured by USDA's FLS.*

79. While most people think of the Departments of Homeland Security and State as handling the process for bringing international workers to the U.S., the Department of Labor addresses a crucial piece: ensuring that bringing in foreign workers does not negatively impact the working conditions and wages for domestic workers. But issuing a prevailing wage determination can take up to 210 days (as of March 31, 2023). The PERM certification process can take over a year to complete. There is intense competition for global labor and avoiding these types of extended processing times will go a long way in providing enhanced certainty and predictability. Failing to deliver reasonable processing times hobbles U.S. businesses' ability to attract and retain talented workers from abroad.

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- a. If confirmed, do you have a plan to reduce processing times for both the prevailing wage and PERM certifications while maintaining the quality of DOL's determinations?
- b. If there is a plan, please outline how DOL will achieve the reduction and in what time frame.
- c. If not, why is DOL incapable of producing a plan?

*Although the Department appreciates Congress appropriating an additional \$2M in the FY 2023 Budget, this funding level was still below the Administration's request to stabilize case processing times in light of the significantly rising application levels across all OFLC programs in recent years. Unfortunately, this situation will continue to create significant risks of processing delays for these time-sensitive applications. Across all business lines, the Department experienced an overall 16% increase in applications in FY 2022 compared to FY 2021, including an 18% increase in PERM filings.*

*Despite this historic demand for certifications, the Department is taking the steps it can to eliminate paperwork for permanent labor certification. For examples, the PERM visa technology modernization project helps streamline the process for PERM filers to submit their applications, the process for PERM analysts to review applications, and the process to submit labor certifications. The PERM modernization project will make it easier for employers to access permanent labor certification services, shaving off time and resources for filers. In addition, once completed, the PERM Visa program will integrate within ETA's FLAG system to help federal agencies securely share labor certification information. The Department looks forward to working with Congress to secure additional needed resources as well as legislative changes to improve the efficiency and efficacy of the foreign labor certification process.*

80. The Department published a final rulemaking "Temporary Agricultural Employment of H-2A Nonimmigrants in the United States" (87 Fed. Reg. 61660 (Oct. 12, 2022)) that modified various regulations of the H-2A program. One such change impacts the ability of farmers to join together with their neighbors and file together as joint employers. This allows farmers, especially small farmers, to share in the costs of the program making the program accessible where it otherwise could not be affordable to participate. The final rulemaking allows for joint employer filing; however, illogically restricts the amount of hours per week an H-2A worker can work on any individual farm to less than 35 hours per week. Weather and perishable crops do not work on a 35-hour work week. These neighbors came together sequence jobs to ensure H-2A workers have full time employment and farmers have the workers they need when their crops are ready.
  - a. Can you please justify the rationale for limiting the ability of small growers to use the program in this manner?

*Small farmers are a vital part of our agricultural industry, and the final rule seeks to protect their ability to participate in the program. The final rule that was published in 2022 establishes a process whereby small farmers that do not have a sufficient volume of work to participate in the H-2A program on their own may jointly file an application with*

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*other small employers. The restrictions imposed on the use of this option are designed to ensure that it is available to the small farmers that may need it most – those that cannot independently offer a full-time job opportunity.*

81. When does children’s work become a child labor law violation?
- a. Briefly explain the laws and regulations in place that protect children from child labor exploitation.
  - b. Earlier this year, children as young as 13 were found to be working the third shift that involved cleaning with toxic chemicals.<sup>4</sup> How does the department ensure that inspectors enforce child labor laws at these plants regardless of their work schedules?
  - c. Does the inspector’s union support third shift inspections?
  - d. How many third shift inspections has the department conducted since 2021?
  - e. In the past two years, more than 250,000 unaccompanied minors have entered the country. HHS welfare caseworkers say that about two-thirds (166,000) of them now work full-time. But last year, the department only found 3,800 children violating labor laws. How are you going to find the missing 162,200 child labor violations?
  - f. What is DOL doing to work with HHS to ensure taxpayer money and resources are not being duplicated?
  - g. The Biden Administration unleashed a cascade of unintended consequences with open boarder polices. We’ve gone from kids in cages under Trump to kids in the factory under the Biden. Under your tenure as Deputy Secretary, minors were discovered to be employed in violation of child labor laws dramatically increased by over 37% in FY 2021. What proactive steps is the administration taking to prevent employers from hiring children?
  - h. What guidance has DOL issued in light of recent media coverage to employers regarding child labor law?
  - i. What is DOL’s plan and timetable to coordinate with other agencies to address this situation?

*Since 2018, the U.S. Department of Labor has seen a 69 percent increase in children being employed illegally by companies. In the last fiscal year, the department found 835 companies it investigated had employed more than 3,800 children in violation of labor laws. The maximum civil monetary penalty under current law for a child labor violation that does not cause the minor’s death or serious injury is \$15,138 for each employee who was the subject of that violation. That’s not high enough to be a deterrent for major profitable companies.*

*The Department takes these egregious violations very seriously and investigates every child labor complaint it receives and acts to hold employers accountable. On Feb. 17, 2023, the Department of Labor [announced](#) the resolution of one of the largest child labor cases in its history against Packers Sanitation Services Inc. LTD. The department currently has hundreds of*

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<sup>4</sup> <https://www.fox5ny.com/news/dozens-of-children-found-working-dangerous-overnight-jobs-at-meat-plants>.

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*child labor investigations underway and continues to field complaints and initiate investigations to protect children.*

*The Department of Labor is coordinating with other agencies by leading an Interagency Taskforce to Combat Child Labor Exploitation. The task force will further collaboration and improve information sharing among agencies, as well as advance the health, education, and well-being of children in the U.S. The DOL is also undertaking a National Strategic Enforcement Initiative on Child Labor.*

82. You’ve written about “the incongruity of applying national borders to individuals and ignoring them for corporations” as an example or symptom of corporate misconduct.<sup>5</sup>
- a. In your view, should we impose greater restrictions on companies for operating internationally?
  - b. In your view, should we do away with borders for individuals?
  - c. Under this premise, by what metric can we know that companies and individuals enjoy an equally porous national border?

*Corporations operating internationally should not be able to undermine American workers by engaging in unfair trade practices, violating international labor conventions, or failing to satisfy workers’ rights protections of either the exporting or importing country. I am committed to the Biden-Harris Administration’s pro-worker trade policy and, through DOL’s work to fulfill Congress’s command in the USMCA and Uyghur Forced Labor Prevention Act, I will work to ensure that corporations are not able to undercut American workers by moving production abroad, violating workers’ rights, and importing the unlawful products to sell to those self-same American workers.*

83. According to reports, under your watch California’s Employment Development Department (EDD) was defrauded by an estimated \$32.6 billion dollars in pandemic assistance.
- a. This is stunning. Can you tell us what happened?
  - b. What is your explanation for wasting taxpayer dollars in this manner?
  - c. With this track record, how can the American people entrust you to lead the Labor Department?
  - d. Why were no fraud-related prevention systems or protocols adopted under your direction?
  - e. What would it have cost for the state to implement proper fraud prevention systems?
  - f. Looking back, what would you have done differently to avoid the squandering of taxpayer money?
  - g. What lessons have been learned to prevent convicted murders from receiving UI benefits while denying support to those who were entitled to UI payments?
  - h. Given these failures, do you have anything to apologize for?
  - i. Did you disagree with the findings of the auditor’s report?
  - j. What lessons have you learned since coming to DOL as Deputy Secretary?

<sup>5</sup> <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1571&context=sjsj>.

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- k. In 2021, the non-partisan Government Accountability Office (GAO) added the "unemployment insurance system" to its high-risk list. What communications have you had with GAO regarding this listing?
- l. What actions is DOL taking to address GAO's recommendations?
- m. How long will it take DOL to implement GAO's recommendations?
- n. Will DOL implement all of GAO's recommendations?
- o. Why or why not?
- p. Is the department prepared to work with states should the U.S. experience an economic downturn that will result in the need to issue higher levels of UI payments?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*This includes decisions regarding the actions of EDD. To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was no ability to work. The State Auditor did not attribute the increased fraud to these decisions.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals,*

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*which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration’s DOL instructed other states to follow suit. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me. These efforts prevented over an estimated \$125 billion in fraudulent payments.*

*The Department appreciates GAO’s important role and the information, analysis, and insights that it provides. Combatting fraud in the UI system is an important priority for the Biden-Harris Administration, and the Department takes the GAO’s recommendations in this space very seriously.*

*The Department is systematically addressing GAO’s recommendations including developing the fraud risk framework. The Department is documenting the fraud risk assessment with plans to finalize and submit the UI fraud framework to GAO by the end of Calendar Year 2023. The DOL OCFO Chief Financial Officer (OCFO) has been designated as the dedicated entity responsible for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in GAO’s Fraud Risk Framework. In addition to the adoption of a fraud risk framework, the Department is also committed to advancing a range of additional measures simultaneously to combat fraud and support states to build more resilient UI systems to resist future evolving threats.*

84. A letter by California State Auditor Elaine Howle said, “[t]n the spring of 2020 [you] directed EDD to pay certain claimants UI benefits without making key eligibility determinations and to temporarily stop collecting biweekly eligibility certifications. Although both directives were designed to provide Californians with benefit payments as quickly as possible, the U.S. Department of Labor has not waived these requirements and, consequently, EDD now faces a very large impending workload of eligibility certifications that threatens its ability to operate effectively.”<sup>6</sup>
- a. You are being considered for a post requested an increased budget of \$15.1 billion for fiscal year 2024, which is significantly less than what was lost under your watch in UI payments alone. This is taxpayer money. What efforts, if any, did you undertake to recover the funds?
  - b. Why did you ignore repeated warnings mentioned by the California State auditor to strengthen fraud protection?
  - c. Did you anticipate this level of fraud?
  - d. Did you anticipate that fraud would increase the workload for EDD and therefore make the agency less effective?

<sup>6</sup> <https://www.auditor.ca.gov/reports/2020-128and628.1/index.html>.

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- e. Why did you order your agency to pay all claims "before determining whether they met key program eligibility requirements" and what legal authority did you have to do that?
- f. Would you give a similar order if confirmed as Secretary?
- g. If a state secretary of labor ignored clear directives from you as Secretary of Labor, what consequences would you implement?

*Fraud and abuse are never acceptable, but in an effort to get claims out as quickly as possible, the PUA program that Congress structured and enacted, and that President Trump signed into law, did not include many checks and balances found in traditional unemployment insurance and it led to massive amounts of fraud nationwide and in California.*

*To keep the aging unemployment insurance system from becoming paralyzed with the record amount of claims that were coming in, I ordered the Employment Development Department to waive certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was and there was limited ability to work. The State Auditor did not attribute the increased fraud to these decisions. 95% of the fraud in California was from the PUA program and not California's unemployment insurance program over which I had control.*

- 85. Leaving aside the waste of \$30 billion, you reportedly did not take any corrective action as the crisis spiraled out of control or acknowledge mistakes after the fact. One of the marks of successful leadership is acknowledging and learning from a mistake.
  - a. Indeed, given the trust placed in cabinet officials on behalf of the people's representatives in Congress and every taxpayer, explain how you would prevent waste, fraud, and abuse at USDOL as secretary as opposed to what happened in California under your watch.
  - b. Do you commit to implementing recommendations from the Government Accountability Office and Department of Labor's Office of Inspector General?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

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*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me and also the same Thomson Reuters tools used by federal law enforcement. These efforts prevented over an estimated \$125 billion in attempted fraudulent payments. At the Department, I've continued to press state systems across the country to use data analytics and cross matching to prevent claims before they occurred.*

86. The Office of Federal Contract Compliance Programs (OFCCP) recently announced scheduling letter changes for federal contractors. These proposed changes will result in considerable increase in federal contractor auditing information to be provided to the OFCCP and would appear to be unnecessary and extremely costly.
- a. Will you commit to have such scheduling letter proposal withdrawn?
  - b. If you will not commit to having the scheduling letter initiative withdrawn, will you commit to have it modified in substantive ways so as to reduce reporting requirements on federal contractors?

*OFCCP is committed to evaluating any comments received in response to its proposed changes to the supply and service scheduling letter. The proposed changes are intended to strengthen OFCCP's ability to protect workers and enforce the law without imposing needless burdens on federal contractors.*

87. The Office of Federal Contract Compliance Programs (OFCCP) proposed changes to the supply and service program information collection requirements on November 21, 2022.
- a. Please describe why DOL believes the data provided by contractors under the current scheduling letter is insufficient to determine if additional data needs to be collected.
  - b. Can you describe OFCCP's estimates regarding the increase in burden hours required to comply with the proposed scheduling letter changes?
  - c. Are you comfortable with the significant additional burden in terms of cost and burden hours on contractors the proposed changes will incur?
  - d. Please provide a definition of "campus-like setting."

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- e. Please describe the additional utility of requiring multiple Affirmative Action Program (AAP) submissions based on a single scheduling letter.
- f. Please describe how such requirement does not run afoul of OFCCP's own Functional AAP procedures.
- g. Please describe the legal basis upon which OFCCP would require employers to submit compensation data of temporary employees – that is, employees of third-party staffing agencies – particularly when EO 11246 covers "employees" and "applicants" only.
- h. Please describe how collecting compensation data of temporary employees does not violate the California Consumer Privacy Act and the California Privacy Rights Act.
- i. Please describe how collecting compensation data of temporary employees does not violate federal antitrust law.
- j. Please define "mechanism" in the context of the proposal's requirement to submit data on AI.
- k. Please describe what it means, in the context of the proposal, for a selection procedure to be "technology-based."
- l. The proposal requires documentation of "practices regarding all employment recruiting... mechanisms." Please describe how such wording does not require a government contractor to document and submit any and all interactions with even potential job candidates.

*The proposed information collection request outlines the legal authority, procedures, burden, and cost associated with developing and maintaining affirmative action programs and responding to the compliance review supply and service scheduling letter. The changes are intended to strengthen OFCCP's ability to protect workers and enforce the law in light of modern advances in the workplace, including employers' increased reliance on automated systems and other technology-based selection procedures. The proposal also clarifies existing requirements. OFCCP has invited comments on whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; if the information will be processed and used in a timely manner; the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.*

88. OFCCP's memorandum of understanding (MOU) with the EEOC makes OFCCP an "agent" of the Commission via dual-filed complaints/charges.
  - a. Does the MOU shift the timeline to file a complaint to OFCCP of an event that occurred to up to 300 days before filing?
  - b. How does OFCCP plan to handle even a small portion of the EEOC's workload without significant increases in staff and resources?

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- c. Given that, as OFCCP Director Jenny Yang has publicly admitted, many OFCCP employees are fairly new and inexperienced in their roles, how does OFCCP plan to handle the vast expanse of the scope of its mission by applying "compensatory" and "punitive" damages under Title VII law?
- d. Under what authority will OFCCP enforce the 1978 Pregnancy Discrimination amendment to Title VII, the Civil Rights Reform Act of 1991, the Lilly Ledbetter amendments to Title VII, or any other statutes enforced by EEOC that are not reflected whatsoever in Executive Order 11246?
- e. How will OFCCP ensure that employers are not subject to multiple ongoing investigations for the same alleged violations?

*The Office of Federal Contract Compliance Programs first entered into a memorandum of understanding with the EEOC in 1970. Since its inception, the MOU has broadly promoted interagency coordination in the enforcement of equal employment opportunity (EEO) laws and has also served to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistency among the operations, functions, and jurisdictions of the relevant agencies. It is intended to improve enforcement, maximize efficiency, and avoid issues like duplicative investigations for the same alleged violations. The MOU does not alter the underlying statutory authorities of each agency.*

*Since Executive Order 11246 was issued, OFCCP has interpreted its prohibition of discrimination based on race, color, religion, sex, sexual orientation, gender identity, and national origin consistent with similar federal anti-discrimination laws, such as Title VII.*

- 89. While you were Deputy Secretary, the Employee Benefits Security Administration (EBSA), an agency under the Secretary of Labor's direct purview, released its ESG rule.
  - a. Were you involved in this rulemaking?
  - b. Why is ESG an important factor to consider for investment vehicles?
  - c. Are you aware that multiple studies show that ESG funds tend to underperform traditional investments?
  - d. Several members of Congress believe that ESG rules will weaken the United States' energy, national, and economic security. How do you respond to their concerns?
  - e. Now that DOL has loosened the requirements for fiduciaries to use ESG more freely, can you tell me how DOL will prevent the misuse of pension funds under its rule?
  - f. Do you believe it is ever appropriate for political or policy preferences of a fiduciary to supersede the financial interests of participants and beneficiaries in an ERISA covered account?

*Secretary Walsh and I established an agenda for our component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, OASP, and SOL to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

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*Last November, the Employee Benefits Security Administration (EBSA) released a Final Rule under the Employee Retirement Income Security Act (ERISA) to empower plan fiduciaries to safeguard the savings of America’s workers by making it clear that when appropriate, fiduciaries may consider environmental, social, and governance (ESG) factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations. The final rule also made clear, as discussed further below, that fiduciaries can never sacrifice financial returns in order to pursue an ESG goal.*

*The Final Rule addresses the Department’s concern that two 2020 final rules issued by the prior Administration created uncertainty and had the undesirable effect of discouraging ERISA fiduciaries’ consideration of ESG factors in investment decisions, even in cases when it is in the financial interest of plans and their participants and beneficiaries to take such considerations into account. This uncertainty may have deterred fiduciaries from taking steps that other marketplace investors take to maximize their risk-adjusted returns by enhancing investment value and performance or improving investment portfolio resilience against the potential financial risks and impacts associated with an ESG factor.*

*The broad body of research evaluating ESG investing, on balance, shows that ESG investing has financial benefits.*

*In a meta-analysis of over 1,000 studies published between 2015 and 2020, Whelan et al. (2021) reports that of the studies concerning corporate performance, 58 percent find a positive relationship, while 13 percent find a neutral relationship, 21 percent find a mixed relationship, and 8 percent find a negative relationship. Of the studies concerning investment performance, 33 percent find a positive relationship, 26 percent find a neutral impact, 28 percent find mixed results, and 14 percent find negative results.<sup>11</sup> They found similar results when focusing only on studies about climate change and financial performance.*

*Clark, Feiner, and Vieha (2014) conducted a meta-study analyzing more than 200 studies — 45 of which looked at operational performance — and showed that 88 percent of these studies found that ESG practices lead to better operational performance. Additionally, 41 of the operational performance studies reviewed the relationship between sustainability and financial market performance, and 80 percent showed that stock price performance of companies is positively influenced by good sustainability practices.<sup>12</sup>*

*Friede et al. (2015) found in their meta-study that only 10 percent of studies found a negative ESG performance relationship, while 47.9 percent of vote-count studies and 62.6 percent of meta-studies show positive findings.*

*EBSA’s Final Rule continues the Department’s focus on the core statutory principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on risk-return factors and not subordinate the interests of participants and beneficiaries (such as by sacrificing investment returns or taking on additional investment risk) to objectives unrelated to the provision of benefits under the plan. See 29 CFR 2550.404a-1(a), (b), (c) and (d). As the Final Rule itself expressly states: “A fiduciary may not subordinate the interests of the participants and*

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*beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan."*

<sup>11</sup> Tenise Whelan, Ulrich Atz, Tracy Van Holt, & Casey Clark, "ESG and Financial Performance: Uncovering the Relationship by Aggregating Evidence from 1,000 Plus Studies Published Between 2015 and 2020," *Journal of Sustainable Finance & Investment*, (2021.) [https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM\\_ESG-Paper\\_2021%20Rev\\_0.pdf](https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM_ESG-Paper_2021%20Rev_0.pdf).

<sup>12</sup> Gordon Clark, Andreas Feiner, & Michael Viehs, "From the Stockholder to the Stakeholder: How Sustainability Can Drive Financial Outperformance," University of Oxford and Arabesque Partner, (2014), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2508281](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2508281).

90. Employee Benefits Security Administration (EBSA) has stated that it is under-resourced.
- a. Why is Environmental, Social, and Governance (ESG) a larger priority than implementing the bipartisan SECURE 2.0 bill?
  - b. DOL's regulatory outlook included a review of the fiduciary rule. Can I assume you had a part in writing this?
  - c. If so, what did you contribute?

*The Department of Labor released its Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights" in November 2022, following Executive Order 14030, which was signed by President Biden on May 20, 2021. SECURE 2.0 was enacted after the Final Rule's publication in December 2022. Implementing the bipartisan SECURE 2.0 legislation is a top priority for EBSA.*

*The Department has on its regulatory agenda [a rulemaking project](#) that would propose an amendment to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code. The Department has not yet issued proposed rulemaking on this issue.*

91. The Fifth Circuit ruled against EBSA a few years back. More recently federal circuit courts have ruled against an FAQ issued by DOL on this.
- a. Did you approve these matters currently being adjudicated?
  - b. What sort of resources is EBSA using to fight these cases?
  - c. Couldn't these resources be better used to actually defend savers from bad actors?

*I was not at the Department during the 2016 Conflict of Interest Rulemaking. I support the steps that the Biden-Harris Administration has taken to protect the retirement of hardworking Americans, including enforcement and participant assistance efforts that have resulted in over \$2 billion dollars returned directly to America's workers, retirees, and their families.*

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92. Acting Secretary Su, a large part your case for confirmation is that you were at Secretary Wash's side as Deputy Secretary. You discuss how you made crucial decisions, acting almost as a Co-Secretary. As you know, the Labor Secretary is chair of the PBGC Board, which administers the pensions bailout that was enacted in the 2021 spending bill. The PBGC Inspector General recently released a report indicating that the PBGC sent money to pensions that was to be paid out to people who are no longer alive. They are now looking into whether, in effect, the PBGC sent bailout money to dead people.
- a. Are you aware of this issue?
  - b. As Secretary, how do you plan to address this mismanagement of taxpayer dollars?
  - c. What steps is the PBGC taking to prevent bailout money being sent to dead people?

*The American Rescue Plan, that Congress passed, and President Biden signed into law in March 2021, contains provisions designed to address a long-running financial crisis in the multiemployer pension system. That crisis was going to result in the insolvency of the PBGC and impact the financial health of millions of workers and retirees in communities across the country who through no fault of their own were going to face drastic cuts to benefits they had earned through their hard work. Prior to the passage of the ARP, employers across the country were similarly concerned about the impact of the multiemployer pension crisis on their current and former employees, and their own bottom lines.*

*I am aware of the PBGC Inspector General's report, which also commended PBGC management on its work to protect taxpayer dollars. Under the ARP, PBGC provides financial assistance to multiemployer pension plans, not directly to individual participants and beneficiaries. The report addresses the methodology that is used to calculate PBGC's financial assistance to plans. If confirmed, I am committed to supporting PBGC's continuing efforts to protect taxpayer dollars. Plan fiduciaries, including those receiving financial assistance from PBGC, have an obligation to ensure that plan benefits are paid in accordance with the terms of the plan to the participants and beneficiaries who are entitled to the benefits. To the extent the Department has evidence of plausible allegations of fraud, it is committed to taking appropriate action to address it.*

93. In 2019, the Securities and Exchange Commission (SEC) adopted Regulation Best Interest (Reg BI) that imposes enhanced standards of conduct requirements on broker-dealers and their registered representatives when making a recommendation regarding securities, including variable annuities, to a consumer. Then, in 2020, the National Association of Insurance Commissioners (NAIC) adopted a model regulation for states to consider that aligns with Reg BI and applies to financial professionals who recommend to consumers annuities that are not equity-based and SEC regulated. So far 33 states have adopted the NAIC model and there is adoption activity in 7 additional states.
- a. Since both Reg BI and the NAIC model address the same conflict issues DOL was trying to address, without limiting access to insurance products, why is it necessary for DOL to engage in fiduciary regulatory activity?

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- b. How will the new rule reflect the changes that the financial services industry has made to comply with Reg BI?
- c. Deputy Secretary Su, we are in the middle of budget season, and the Department of Labor has requested an increased budget of \$15.1 billion for fiscal year 2024. The fiduciary rule's status is on the regulatory agenda again this year, despite the fact that the last time this rule was issued, it had devastating effects, causing 10.2 million low and middle-income individuals to lose access to investment assistance. How much taxpayer money did the Department of Labor and Department of Justice spend on implementation and litigation of the disastrous 2016 Fiduciary rule?
- d. How much would both Departments project to spend should the Labor Department move forward with another rule on Fiduciary status?
- e. Does this include litigation costs?

*I was not at the Department of Labor during the 2016 Conflict of Interest Rulemaking. While DOL has a project on its regulatory agenda to define the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code, the Department has not yet issued a proposal. Therefore, I cannot comment on associated costs.*

*As we move forward, we will consider the work of other regulators and new regulations issued since 2016, such as the Securities and Exchange Commission's Regulation Best Interest (Reg BI), as well as the prior administration's fiduciary advice exemption. The regulatory landscape is not the same as when the Department first began this project many years ago, and any proposal would reflect that. The Department has not yet issued proposed rulemaking on this issue.*

- 94. The Department of Labor's regulatory agenda has repeatedly stated that a revised fiduciary rule is forthcoming.
  - a. Can you specify the timing of the rule?
  - b. When it will be released for public comment?

*The Department's most recent regulatory agenda includes notice and comment rulemaking to propose an amendment to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code. The Department has not yet issued proposed rulemaking on this issue.*

- 95. Fiduciary-only advisors generally require account holders to invest at least \$100,000 up front, which is more than many working-class Americans have in retirement savings. It is also worth noting that fiduciaries generally charge an ongoing asset-based fee. This assets under-management fee model is biased toward wealthy clients with significant assets and against working-class families who would benefit from purchasing an annuity. A

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fiduciary-only approach would severely limit savings options for Americans looking to secure their financial future. The result could be ruinous to millions of Americans, denying them of hundreds of millions of dollars in retirement savings.

- a. Why would DOL engage in rulemaking that would harm millions of Americans trying to save for retirement when there are already appropriate consumer protections in place?

*The Department has on its regulatory agenda [a rulemaking project](#) that would propose an amendment to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code.*

*The proposed amendment would consider the practices of investment advisers, and the expectations of plan officials, participants, and IRA owners who receive investment advice, as well as developments in the investment marketplace, including the ways in which advisers are compensated that can still create harmful conflicts of interest.*

*Any ultimate proposal will consider the work of other regulators and new regulations issued since 2016, such as the Securities and Exchange Commission's Regulation Best Interest (Reg BI), as well as the work of the prior administration and its fiduciary advice exemption. The regulatory landscape is not the same as when the Department first began this project many years ago. While these changes have been important and beneficial, it is important to recognize, however, that they do not uniformly apply to all retirement investors. For example, Reg BI does not cover recommendations to plan fiduciaries, such as small plan sponsors who are dependent of investment experts for sound advice on how to construct their plan investment menu, or to recommendations of assets other than securities.*

*In conjunction with this rulemaking, EBSA will also evaluate available prohibited transaction class exemptions and propose amendments or new exemptions to ensure consistent protection of employee benefit plan and IRA investors.*

*The new fiduciary advice exemption issued by the prior administration, PTE 2020-02, which [went into effect on February 16, 2022](#), is a significant development. The exemption is not mandatory, and not everyone has to implement PTE 2020-02 as part of their business model.*

*We are also considering how the fiduciary rule and associated exemptions could be revised in a way that promotes a level playing field between different types of advisers to retirement investors, without any unfair disadvantage to firms and investment professionals that chose to implement PTE 2020-02 and acknowledge fiduciary status.*

96. As you know, an ESOP is a qualified retirement plan through which the employees of a company own some or all of the company where they work, the value of their interest in the ESOP grows during their career with the company, and when they retire or leave, the

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employee is paid that value in the form of retirement income or may roll over the value into another qualified retirement plan. Perhaps the most fundamental aspect of making an ESOP work is properly valuing the company owned or purchased by the ESOP. Congress has now twice directed DOL to provide regulatory clarity on the proper process for an ESOP Trustee to use for valuing a company – first with the passage of ERISA in 1974 and again last year with the passage of the SECURE 2.0 Act. Yet DOL has never followed through with this regulation. I understand DOL is already giving signs it may not do so in relation to last year's legislation. This should not be a difficult task because the IRS already has very clear guidance on how to value an asset like a company, and DOL itself nearly completed such a regulation in 1988 but never issue the final reg. Because DOL has not given the needed regulatory clarity, yet has aggressively pursued so-called enforcement actions against ESOPs, untold millions of Americans have not been given the opportunity to hold an interest in an ESOP because their employer is unwilling to risk a DOL investigation.

- a. Will you commit that that within the first year of holding office DOL will initiate a notice and comment rulemaking on what constitutes an appropriate process for an ESOP Trustee to follow to demonstrate they have established a good faith fair market value for company shares to be bought by an ESOP?
- b. If not, why not?

*DOL is committed to implementing the SECURE 2.0 Act, including provisions pertaining to ESOPs. As we have publicly stated following the passage of the SECURE 2.0 Act, the Department will be moving forward with notice and comment rulemaking on the "adequate consideration" requirement in connection with ESOP acquisitions of qualifying employer securities in accordance with section 346 of SECURE 2.0. We are unable to provide specific information on the timing of issuance of a final rule, as that will depend on the breadth, depth, and content of the public input we receive.*

97. Ms. Su, I understand that EBSA has been undertaking a "National Enforcement Project" against ESOPs since 2005. I also understand more than 1 in 3 ESOPs have come under scrutiny by DOL, yet DOL has never completed the notice and comment rulemaking it was required to undertake by ERISA decades ago that would provide clarity on the topic for which they are nearly universally being investigated—the valuation of the company. EBSA investigators like to point to a small handful of settlement agreements with individual companies as all the guidance that is needed. Unfortunately, those agreements were made between the government and individual companies under the threat of crippling and very expensive lawsuits brought by the federal government. Those agreements are limited to the unique facts of those specific cases. And those agreements fail to meet the most basic test of a free and fair government – that the regulated businesses should have the opportunity to weigh in and provide their expertise and knowledge as the regulated industry.

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- a. Does DOL have a responsibility to provide ESOPs and their employees the opportunity to comment on regulations by DOL that would impact in many cases their single largest asset?
- b. How does the Department justify enforcement on rules it has never issued?

*The Department will be moving forward with notice and comment rulemaking on the "adequate consideration" requirement in connection with ESOP acquisitions of qualifying employer securities. As part of that process, any interested party will have the opportunity to provide their input to the Department. ESOP fiduciaries, like any fiduciary under Title I of ERISA, are subject to significant and widely understood statutory obligations of prudence, loyalty, fair dealing, and avoiding prohibited transactions. In addition, the "adequate consideration" definition is the subject of a well-developed body of caselaw, as well as repeated guidance in multiple contexts by the Department of Labor. The Department's enforcement actions have been based on the text of the statute, as interpreted by the courts for decades.*

98. The SEC's Regulation Best Interest requires a broker-dealer to act in the retail customer's best interest and prohibits them from placing their own interests ahead of the customer's. Reg BI applies to all account types and transfers, including rollovers from retirement accounts. The SEC and DOL have overlapping jurisdiction in the narrow space of investment advice to retirement accounts.
  - a. In your opinion, should the DOL engage in further rulemaking regarding investment advice that would result in potentially conflicting rules, increase costs, and limit investors' access to advice?

*I believe retirement investors benefit from being able to pay for advice in a way that makes sense for them, whether that is through commissions, an hourly fee, an advisory fee based on the value of the account, or another arrangement. At the same time, it is important to ensure that investors are protected from fee and compensation structures that present conflict of interest problems that could lead brokers and advisers to incentivize recommendations based on an advisor's financial interests, rather than the best interest of their customers.*

*As we move forward, we will consider the work of other regulators and new regulations issued since 2016, such as the Securities and Exchange Commission's Regulation Best Interest (Reg BI), as well as the prior administration's fiduciary advice exemption. The regulatory landscape is not the same as when the Department first began this project many years ago, and any proposal would reflect that. Also, while Reg BI covers many investment recommendations to plans and plan participants, the scope of coverage is narrower, inasmuch as it does not cover recommendations to plan fiduciaries, such as small businesses looking for assistance in constructing plan lineups, or recommendations of assets other than SEC-regulated securities.*

99. In a 2005 article titled *The Progressive Critique of the Current Social-legal Landscape Corporations and Economic Justice* you wrote, "Conservatives like to argue that government should get out of the way and that the market will decide. But just as the idea of 'race neutral' is not really neutral when you have a society built on white privilege and

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systemic racial subordination, government inaction really means government sanction and support for unfettered corporate greed."

- a. How do you define the progressive social movement?
- b. Do you believe that corporations create and perpetuate economic injustice?
- c. Why do you believe that conservatives who argue in favor of free market policies are advocating government support for unfettered "corporate greed"?
- d. How will you effectively work with conservatives in Congress when you've been so harshly critical of conservative policy positions in your public writings?
- e. This article was written in 2005. Do you hold the same or similar views now?

*I believe in working with people representing diverse viewpoints to accomplish the mission of the Department of Labor. Throughout my career in government, I have always listened to both employers and employees, and individuals across the political spectrum. I believe that we make the best policy when we hear from all stakeholders. I think constructive engagement can be incredibly helpful to sharpening our viewpoints and policy ideas.*

*The Department is responsible for implementing what Congress enacts as legislation and that necessarily requires listening to both sides of the aisle. During my time at the DOL, I have made certain that my team is responsive to requests to the Department, from Republicans, Democrats, and Independents alike.*

*We are always looking for potential areas of bipartisanship where the DOL can lend its expertise so that we can work with Congress to help workers and create opportunities, such as the work that Ranking Member Cassidy and Chairman Sanders are now doing together around apprenticeships and training.*

*The first thing I did upon being nominated was to reach out to all members of this Committee and leadership on both sides to meet to discuss my nomination, and I've appreciated the opportunity to speak in depth with so many of you.*

100. In this same article, you stated that the very definition of a corporation "seems to promote and perpetuate economic injustice." You also suggested that free market policies are associated with "government sanction and support for unfettered corporate greed."
- a. Can you explain what you mean when you say "unfettered corporate greed"?
  - b. As Labor Secretary, you will be required to administer more than 180 federal laws relating to a wide range of workforce and workplace issues. How can you possibly work with American businesses in good faith?
  - c. Why should businesses see you as a neutral arbiter, after taking such a harshly critical posture towards them in your public writings?

*This is an opening paragraph of published remarks I made as an invited speaker on a law school panel. The comments I made after the introductory paragraph offer fuller context and assert my belief and commitment to making a more just world by working with corporations as I have done throughout my career and as I am committed to doing if confirmed. Throughout my career, I*

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*have worked with businesses of all sizes, whether I was leading workforce development programs to meet employers' need for skilled workers, enforcing labor laws and eliminating random inspections that hurt law-abiding businesses, sitting with business leaders to understand their concerns, collaborating on outreach to smaller businesses and their workers, or serving as convener in labor disputes. This is why business leaders who actually know me describe me as open, communicative, and collaborative.*

101. In a 2015 Lecture at Berkeley Law, you defend your use of the term "wage theft" to describe when employees are not paid for their work. In a footnote you specifically cite DOL's use of terms such as "owed wages" and "unpaid wages" as being insufficient.
- a. In such situations do you think the term "wage theft" creates a biased perception against employers, particularly in situations in which missed payments are inadvertent and remedied as quickly as possible?
  - b. Do you plan to make use of this language at DOL prior to any legal determinations being made?

*Earned wages that go unpaid harm both workers by making it harder for them to put food on the table and law-abiding employers who are put at a competitive disadvantage simply by virtue of being in compliance. The great majority of employers comply with wage and hour laws, and WHD provides extensive compliance assistance to help employers ensure they are in compliance. I will faithfully enforce the law to ensure that wage theft cannot be used as a business model that harms both workers and the great majority of law-abiding employers.*

102. In a 2019 article you state that "the California dream is not well" and note "staggering levels of income and wealth inequality" are among the worst in the nation. Meanwhile, California has one of, if not the most, active regulatory environments in the country.
- a. Do you see a correlation between California's high levels of inequality and the vast numbers of regulations imposed on regular working people and businesses?

*Using GDP and employment and labor statistics, the California economy continued to grow over my decade of service to the State of California. Even with the disruption from COVID, California's economy and workforce have recovered faster than that of most states. I believe in the President's vision of an economy that leaves no one behind.*

*President Biden believes—and I agree—that we must build the economy from the bottom up and the middle out. Doing so requires investing in America's workers and policies designed to reduce costs for working families. If confirmed, I look forward to working with Members of the Committee and Congress to do so.*

103. Inflation has risen nationally by 5.14% per year since 2020, which has resulted in a cumulative price increase of 16.24% over that time. There were a variety of causes, but increased government spending and regulatory burden on businesses has certainly contributed. Several policies, which you are on-record supporting, stand to further surge

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costs for consumers. For example: it is estimated that a national contract worker reclassification could cost businesses as much as \$57 billion and a national joint employer rule could cost franchises up to \$33.3 billion per year.

- a. Can you tell us why you support policies that would increase prices for consumers and further harm the economy?

*In March, the 12-month inflation rate was at the lowest level since May 2021 and is the ninth consecutive month of declines. Inflation has now fallen by 45% since its summer peak. My mission and DOL’s mission is to grow the economy from the bottom up and the middle out by protecting workers and leveling the playing field for the vast majority of law-abiding employers.*

104. One of the causes of high inflation has been the supply chain crisis gripping our country. In the middle of this crisis, California under your guidance implemented AB 5, which reclassified many independent contractors as employees. This caused mass confusion and chaos in the contractor community, including owner-operator truck drivers. It is estimated that as many as 90% of the Port of Oakland’s truck drivers were owner-operators when the law went into effect and they were unsure if they could operate at California’s ports, which exacerbated the supply chain issue and drove up prices for consumers. When owner-operators petitioned your office for guidance, they were given none.
- a. Ms. Su, did you foresee that AB5’s implementation during a tenuous economic time would harm the economy of California?
- b. If not, why not?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

105. You wrote that the definition of a corporation is an “entity that is created to permit maximum income.”<sup>7</sup>
- a. Whose job is it to “permit” Americans to create economic value?
- b. Do you see that as the federal government’s role?

*Since the beginning of the Biden-Harris Administration, the economy has added 12.6 million jobs. My mission is to grow the economy from the bottom up and the middle out by protecting workers and leveling the playing field for the vast majority of law-abiding employers.*

106. Based on the Bureau of Labor Statistics (BLS) data, the number of job openings climbed to over 11 million in December 2022. Economists expect the U.S. to need over 5 million workers per year across all sectors of the economy by 2050, to maintain the ratio of working-age to over 65 population. The ongoing labor shortages stem from the inevitable demographic changes. In 2020, more than one in six Americans were 65 or

<sup>7</sup> <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1571&context=sjsj>.

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older. The U.S. Census research shows that by 2060, nearly one in four Americans will be at least 65 years old and the number of people older than 85 will triple. As the society gets older and the overall workforce shrinks, it will be harder for employers to find enough workers to fill the gaps. Rather than "labor shortage," the more fundamental trend is the one of "labor scarcity."

- a. If you are confirmed as the Secretary of Labor, how do you plan to ensure that critical jobs are filled in the face of a shrinking number of workers?
- b. If you are confirmed as the Secretary of Labor, how do you plan to address ongoing or future labor shortages?

*If confirmed, I will do everything I can to ensure that our nation's workers are ready for the jobs of the future. I am incredibly proud of the work I've led with Secretary Walsh at the Department to expand workforce training. With regard to the realities of an aging workforce in critical industries, I'm especially proud of our work to help more youth find career paths into the labor market that don't require a four-year degree. We've launched a national, Youth Employment Works strategy to work with business to expand more paid work experience opportunities for our young people that connect them with careers in manufacturing, IT, healthcare, and the trades. We are also working hard to expand apprenticeships and connect them to our schools so that students can start a career path that connects them to in-demand jobs in their community.*

*With two trillion dollars in federal infrastructure funding becoming available, it's critically important that people get the skills they need to access jobs in sectors of the economy that will be spurred by these investments in advanced manufacturing, clean energy, the trades, and more. As President Biden has said consistently since his time as vice-president and as a Senator, we need to support partnerships between all the players who care about training -- community colleges; businesses; unions; state, local, and tribal governments; nonprofits; universities; and high schools. I firmly believe this as well. These kinds of partnerships can identify in-demand knowledge and skills in a community and develop, modernize and scale training programs that lead to relevant, high-demand industry-recognized credentials.*

107. As apparent from the data above, this trend clearly suggests that increasing worker wages alone will not solve this issue. Former Secretary of Labor Marty Walsh stressed the need for an immigration reform, stating that, "The threat to the American economy long-term is not inflation, it's [about] immigration. It's not having enough workers."
- a. How do you see the role of immigration in the department's strategy to address labor shortages?

*Immigration reform is within Congress's purview. If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation.*

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108. While virtually all sectors of the U.S. economy have been impacted by labor scarcity, employers in need for workers in low- and mid-skill<sup>8</sup> year-round occupations, have been hit particularly hard as there are currently a very few migration pathways allowing these businesses to hire from abroad. For example, the health care sector expects a shortage of more than 400,000 home health aides by 2025 and stresses there will be a need for workers in other healthcare professions as well. And yet, the U.S. currently doesn't have migration pathways that can meet the urgent need for non-seasonal workers to support all types of care, today and the future.
- a. How do you plan to help employers in need of low- and mid-skilled workers?
  - b. Do you plan to introduce new or/and adjust any existing DOL regulations to simplify hiring of workers from abroad?

*If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation. In the meantime, we are investing in the nation's care workforce, most recently for example, a new \$80 million investment in innovative strategies in regions across the U.S. to meet the nation's critical front-line care and nursing workforce needs.*

109. In times of labor scarcity, governments around the world use regularly updated shortage occupation lists to help boost the working population by allowing foreign workers with needed skills to fill in-demand jobs. Although the U.S. has an occupation list, called Schedule A, it has been not been updated since 1991 and contains just a fraction of the occupations that are in high demand by employers now.
- a. Which obstacles do prevent DOL from updating Schedule A more regularly?
  - b. If confirmed, would you consider using an updated shortage occupation list like Schedule A to help DOL identify for which occupations and skills are in high demand by employers?
  - c. If so, can you provide a timeline for DOL to update the Schedule A?
  - d. Would an update follow public notice and comment rulemaking?
  - e. If not, why not?

*If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation.*

110. There are many countries around the world that regularly use shortage occupation lists to help augment the domestic working population when there are not enough of them

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<sup>8</sup> LaMP defines low- and mid-skill occupations as requiring less than a bachelor's degree.

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to fill important jobs. These countries include the UK, Australia, and New Zealand. The U.S. has had a shortage occupation list since the 1960s called Schedule A, but unlike these other countries, our list has not been updated since 1991.

- a. In your opinion, what obstacles is the Department of Labor experiencing that prevent it from updating Schedule A?
- b. Why has DOL not prioritized updating the Schedule A since your time at DOL?

*If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation.*

111. When the Schedule A list was first adopted following the 1965 Immigration Act (30 FR 14979, Dec 3, 1965), DOL established that individuals with a Masters or PhD would be exempt from individual permanent labor certification along with all STEM professionals in engineering and the physical sciences.
  - a. Is this approach something that the department could reconsider today?
  - b. If so, why or why not?

*If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation.*

112. Congress asked the department, through the appropriations report language for FY21, to evaluate the viability of updating Schedule A in FY2021, but it's unclear what if anything was done about that.
  - a. What progress has the department made to comply with the report language?
  - b. When can Congress expect DOL to finish complying with the report language?

*The Consolidated Appropriations Act for FY2021 encouraged, "the Secretary to consider rulemaking to improve the experience of employers and to effectively allocate Department resources with the goal of protecting U.S. workers from undue foreign competition through the labor certification process." If confirmed as Secretary of Labor, I look forward to an ongoing dialogue with Members of the Committee and the Congress on ways the Department can help employers access the labor they need while protecting U.S. workers in their employment within the context of the Administration's goals to create a fair, safe, and orderly immigration system that allows all people to more fully contribute to our nation.*

113. The Department of Labor spends billions of dollars annually to help reskill and train U.S. workers. With the passage of the CHIPS and Science Act last August, there is

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now a greater urgency to ensure that we are training U.S. workers to take advantage of the new jobs which it will create. We also want to ensure we can respond quickly to future economic shifts that create strong demand for jobs in different industries, such as manufacturing or critical and emerging technologies.

- a. If confirmed, what is your plan for orienting DOL's workforce training programs to support the goals of the CHIPS and Science Act?
- b. Would you consider using an updated shortage occupation list like Schedule A to help DOL identify which occupations and skills should be prioritized for workforce training grants and programs?

*The CHIPS and Science Act is a historic investment and it's critically important that people get the skills they need to access the jobs generated by the expansion of domestic semiconductor manufacturing. The Department is working with the Department of Commerce to ensure there will be a ready and skilled workforce to meet the demand for construction, manufacturing technician and engineering and sciences jobs generated by this historic investment. Meeting this need will demand partnerships between all the players – businesses; unions; workforce intermediaries, colleges; state, local, and tribal governments; nonprofits; and high schools. These kinds are the kinds of partnerships we are investing in. We are investing in industry groups to expand apprenticeships in the semiconductor sectors and just launched a new \$80 million Building Pathways Grant program to support local partnerships to build out the advanced manufacturing workforce, including for semiconductors.*

114. The Biden administration and DOL appear hyper-focused on promoting government-registered apprenticeship programs (GRAPs) in the construction industry, instead of supporting an all-of-the-above workforce development strategy that can address the industry's skilled labor shortage. While registered apprenticeship programs are important, these programs only graduate approximately 40,000 to 50,000 construction apprentices yearly, while the latest projections show the industry will need to hire over half a million workers in 2023 alone. These data demonstrate that the vast majority of upskilling and workforce development in the construction industry occurs outside of GRAPs (including both union and nonunion programs).
- a. Based on the data, why is the administration failing to support and encourage all programs across the workforce development ecosystem?
  - b. Do you support industry programs and programs provided by educational institutions that are not affiliated with the government?
  - c. If not, why not?
  - d. Do you support championing only government-registered apprenticeship programs?

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries – because Registered apprenticeship works. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention.*

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*The well documented results of Registered apprenticeship are driven by the fact that Registered apprenticeship programs are always industry driven programs. Employers and industry partners develop and sponsor programs, invest in them and determine what the needed skills, competencies and credentials are needed. At the same time, voluntarily registering an apprenticeship provides a seal of approval that ensures there is oversight, accountability, and quality controls in place that protect the welfare of apprentices and makes apprenticeship an attractive option for workers looking to access a quality earn and learn pathway that offers portability and not just a job, but a career.*

*While Registered apprenticeships have a well-established history in the construction trades, the Department has made strategic investments and cut red tape to generate growth across a range of industry sectors, helping employers of all sizes address critical talent needs in manufacturing, finance, information technology, healthcare and more. Since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers newly participating in the Registered Apprenticeship system across diverse areas from trucking to cybersecurity, to K-12 teachers.*

*While there is unique value to Registered apprenticeship, it is only one of a wide range of workforce training efforts the Department is leading and investing in. Other earn and learn programs, as well as workforce training programs in partnership with community colleges, community-based organizations, industry groups, state and local governments are actively and broadly supported by the Department through targeted grant investments as well as through programs supported at the state and local level through funding administered by the Workforce Innovation and Opportunity Act.*

*The Department is committed to ensuring federal workforce investments are meeting the needs of a number of critical industries and reaching diverse regions and populations through a range of workforce training strategies including paid internships, short-term training with stackable industry recognized credentials, upskilling and on-the-job training. Such grant investments include expanding community college-industry training partnerships through multiple rounds of the Strengthening Community Colleges grants; new dedicated training investments for critical occupations such as nursing, manufacturing and engineering; multiple rounds of Workforce Opportunities for Rural Communities grants implemented in partnership with Appalachian Regional Commission and the Delta Regional Authority; as well as annual grants targeted support youth employment and reentry workforce opportunities for justice-involved youth and returning citizens. The Department is committed to working with Congress to expand the scope of and strengthen the results of these critical investments in job training through needed targeted investments as well as programs supported at the state and local level through the Workforce Innovation and Opportunity Act.*

115. The Inflation Reduction Act of 2022 provides over \$270 billion in tax credits for the construction of clean energy projects. Unfortunately, this law also represents an unprecedented expansion of prevailing wage and government registered apprenticeship

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requirements into the private sector, as taxpayers must ensure contractors comply with prevailing wage rates and apprenticeship work hour requirements to receive the full tax credit.

- a. If confirmed, will you ensure that the DOL meets its statutory requirements to closely work with the Department of Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements?
- b. Have those conversations with Treasury begun?
- c. If not, why not?
- d. If so, when can the public expect the guidance to be issued?

*Yes, I commit to meeting all statutory requirements to closely work with the Department of Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements. DOL and Treasury are in regular contact to ensure the law is successfully implemented.*

116. Uncertainty has arisen among developers and contractors regarding how to ensure compliance with these unclear and complex new regulatory requirements. For example, prevailing wage determinations are not immediately available for many energy job classifications.
  - a. Are you confident DOL has the capacity to help manage this massive expansion of these requirements without delaying critical energy infrastructure?

*Yes.*

117. President Biden has publicly stated that he intends to be "the most pro-union President in history." The Biden administration has attempted to fulfill this mission with policies that benefit union workers to the exclusion of all other workers. For example, through the promotion of project labor agreements, or PLAs, on construction projects. PLAs limit the pool of qualified bidders to primarily unionized contractors and union labor, increasing costs and limiting job opportunities for non-union construction workers. Competition from small, minority- and women-owned federal contractors and their diverse workforces, are also disproportionately harmed by PLA mandates.
  - a. If confirmed as a Secretary of Labor for all Americans, regardless of their labor affiliation, will you oppose these exclusionary policies that harm the 88.3% of construction workers that choose not to join a union?
  - b. If not, why not?

*I support the collective bargaining rights of workers. I also recognize the right of workers to choose not to unionize. If confirmed as Secretary of Labor, I will faithfully implement the President's policies in accordance with the law.*

118. A War Hazard Act Claim is paid by the Department of Labor to a contractor supporting US operations overseas who has been injured due to a military action. Such claims are initially paid by the insurance carrier used by the contractor's employer, who

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then submits the claim to DOL for reimbursement. It is my understanding that since 2020 the department has developed a significant backlog of such claims totalling hundreds of millions of dollars. At this point some claims date back four or five years.

- a. Are you aware of this significant backlog in claims?
- b. What steps has the Department taken to remedy it?

*The number of War Hazard Compensation Act (WHCA) claims has increased substantially in the last five years, more than doubling from 638 cases in calendar year 2017 to 2,977 cases in 2022. As of April 9, 2023, OWCP has already received 1,040 cases in 2023. Various factors led to this workload increase, including a 2018 policy change that changed the evidentiary requirements on Defense Base Act (DBA) carriers to secure WHCA reimbursements for post-traumatic stress disorder claims. Commensurate with this increase in workload, the rate of reimbursement to DBA carriers has also risen. In calendar year 2017, DBA carriers received over \$175.1 million in reimbursements; in calendar year 2021 that amount rose to \$311.6 million; in the current calendar year the reimbursement amount is nearing \$500 million.*

*Despite the increase in workload and the onset of soaring COVID-19 claims, the Division of Federal Employees', and Longshore and Harbor Workers' Compensation's (DFELHWC) budget was flat funded without inflationary increases between fiscal years 2017 and 2021. The flat Congressional appropriations forced the division to absorb those inflationary cost increases through staff attrition, while also implementing opioid and fraud prevention controls that required the shifting of shrinking resources. The net effect of that budgetary policy was equivalent to an actual loss of 151 full-time equivalents (FTE) from fiscal years 2017 through 2021 in DFELHWC.*

*Despite a growing workload and shrinking resources, the division substantially increased reimbursements to DBA carriers during those years, but the pace at which those claims can be processed has reached its limit with current resources.*

119. I am concerned that given the scale and persistence of the backlog some carriers may cease providing War Hazard Act Claim coverage which could make it more difficult to support those men and women supporting our operations overseas.
  - a. How would the existence of several carriers impact the stability and viability of providing War Hazard Act Claim coverage to contractors assisting US operations overseas?
  - b. To what extent did the work from home conditions contribute to the development of this backlog?
  - c. To what extent has any continued work from home conditions limited the ability of the department to address this backlog?
  - d. How long will it take the department to eliminate this backlog completely?

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*Despite a growing workload and shrinking resources, the division increased reimbursements to DBA carriers during those years, but the pace at which those claims can be processed has reached its limit with current resources.*

120. The Department received an increase in its appropriations of \$3 million for the office that supervises the processing of War Hazard Act Claims.
- a. How do you plan to use that increase in appropriations to address the existing backlog and improve the processing of these claims?

*The Department is appreciative of the increase in appropriations for the Office of Workers' Compensation Programs (OWCP). OWCP plans to continue processing War Hazard Act Claims under a special claims handling unit. For FY 2024, OWCP has requested an increase from \$250M to \$700M in the Special Benefits appropriation, from which WHCA and other claims are paid. This increase is reflected in the President's FY 2024 budget. The FY 2024 President's Budget also includes an increase of \$23,273,000 and 149 FTE for DFELHWC staffing in General Salaries & Expenses funding. The increased funding is consistent with the continued trend of escalating requests for reimbursement.*

121. The Department uses a particularly antiquated system for processing these claims, for example insurance carriers must burn claim information onto a CD-Rom. They then have to FedEx the CD to a Department office in Florida. It is asserted all other claims are processed through the online portal.
- a. Do any other claims systems still use CDs to transmit data to the Department?

*CD-ROMS are permitted in all OWCP claim systems as a method to transmit data to the Department.*

- b. How does the system ensure a claimant's personally identifiable information is protected?

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*OWCP has entered into memorandums of agreement for purposes of protecting claimant's personally identifiable information. The agreements generally require that data be transported on the CD-ROM be done with appropriate safeguards consistent with the manner in which they are stored or processed to include, but not limited to, the use of a FIPS 140-2 certified encryption solution to encrypt all data stored on the media. Any associated usernames or passwords provided to decrypt the information must be safeguarded consistent with each party's password use policy and only provided to individuals with a need to access the information.*

122. The use of CDs to transmit claims information poses a security risk as these CDs contain significant amounts of personally identifiable information. Further, DOL has an inadequate chain of custody over these CDs and that there have been instances where the Department has lost CDs and carriers have had to resubmit CDs with the same claim information.
- a. Will you commit to addressing these security concerns by transitioning the processing of War Hazard Act Claims to an online portal? No.
  - b. If not, why not?

*No substantiated security risks or loss of CDs have been identified by any party to a WHCA reimbursement claim. Moreover, carriers filing applications for reimbursement are required to enter into memorandums of agreement relating to the proper security protocols to be used in the transmission of data, including use of FIPS 140-2 encryption of all stored data on CDs. Given the budgetary constraints already identified, a costly new online submission system is not realistic.*

123. Current OWCP Bulletin of 10/18/2004 requires the underlying war hazard claim to be finalized before a request for reimbursement by the insurance company can be made. A very small percentage of claims are rejected for reimbursement.
- a. Given this fact, will you consider adopting a system of partial or interim payments at a specific point in the claims processing timeline?
  - b. Could the Department make a payment equal to 50% of the claim and pay the remaining balance of the claim upon final completion of the processing?
  - c. If so, how long would it take for such a system to be implemented?
  - d. If not, why not?

*In order for a claim for reimbursement be made under the WHCA, the injury must be covered by the DBA. Under OWCP Bulletin 05-01, a DBA order is not required but is highly recommended since the adjudication expertise and review process is with the Longshore Program. Before any reimbursement payment to a carrier can be made under the WHCA, the Department must determine if the injury arose from a war risk hazard. Once that determination is made, if WHCA Claims Examiners were required to process partial requests for reimbursement, the total number of individual requests being processed would likely increase significantly, leading to an even greater queue of pending claims than presently exists. If carriers submitted partial*

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*payment requests for individual medical expenses as they occur, rather than requesting, for example, a lump sum reimbursement for past and future medical expenses pursuant to an 8(i) settlement, the total number of medical payments that WHCA Claims Examiners would have to review and approve would drastically increase and likely result in longer processing times.*

124. There has long been strong, bipartisan support for ensuring that people have access to mental health and substance use disorder benefits. That's why Congress passed the Mental Health Parity and Addiction Equity Act, and there have been extraordinary efforts by employers, health plans, and insurers to come into compliance. However, I have heard over and over that the Department of Labor has failed to provide employer plans with the guidance needed to demonstrate compliance with the law and, in particular, the NQTL requirements. People need to understand the rules of the road for the NQTL analysis requirements.

a. Can I have your commitment that the Department will work closely with the regulated community to address their concerns about the lack of guidance?

*Yes. The Department is committed to providing guidance as reflected in its over 25,000 outreach events, almost 100 individual FAQs, discussions of MHPAEA issues in numerous rules, roundtables for employer-sponsored and other employment-based plans and industry, and multiple compliance assistance tools, templates, and publications. We recognize that this is a complicated area of the law and are committed to continuing to work with plans, health insurance issuers, and others to address concerns about additional guidance. As one additional component of that guidance, we will prepare a model analysis.*

125. There is no question that it is critically important for people to have access to comprehensive mental health services and substance use disorder treatments. That is why there continues to be strong, bipartisan support for the Mental Health Parity and Addiction Equity Act. I appreciate the efforts aimed at improving compliance with law, and I would urge the Department to take additional steps to assist employers, insurers, and health plans in understanding their obligations, particularly with respect to the NQTL requirements.

a. If confirmed, will you commit to working closely with Congress and the regulated community to provide clear guidance on the NQTL analyses that are required to be available upon request (e.g., a list of NQTLs)?

b. Will you commit to providing specific detail on the information that the Department expects to be included in the NQTL analyses?

*Yes.*

126. Congress has gone to great lengths, on a bipartisan basis, to expand the availability of comprehensive mental health services and substance use disorder treatments, and the Consolidated Appropriations Act, 2021 directed the Department to issue guidance providing "illustrative, de-identified examples of previous findings of

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compliance and non-compliance" of MHPAEA "based on investigations of violations" of MHPAEA.

Can I have your commitment that the Department will provide a de-identified example of compliance with the MHPAEA NQTL analysis requirements (e.g., a model NQTL analysis)?

Yes.

127. You note in a 2015 lecture at Berkeley Law that as California Labor Commissioner you initiated surveillance of companies and their employees even before an inspection.<sup>9</sup>

- a. Do you have any concerns about the violation of privacy of employers and workers?
- b. Have you implemented this at DOL enforcement agencies?

*All inspections conducted under my tenure were done in full compliance with all laws, including privacy. The same has been and will be true of my time in leadership at the U.S. Department of Labor.*

128. You noted a willingness to "push the boundaries of the law" which "on its face did not appear to hold the right parties accountable" for violations.

- a. Do you intend to "push the boundaries of the law" as Labor Secretary?
- b. What are some areas where you would deem it appropriate to push the boundaries?

*If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

**Senator Ted Budd's QFRs (R-NC)**

1. What is your opinion of the establishment of the "Fast Food Council" under AB 257 in California, which grants unelected individuals the power to set industry-wide minimum standards on working conditions, training, wages, and regulations for fast food restaurants, effectively stripping small business restaurant operators of their independence and handing critical business decisions to unelected bureaucrats?
  - a. Do you support unelected bureaucrats setting such a broad array of standards for private business?
  - b. Do you believe the role of government is to regulate aspects of running a business?

*I was not in California when AB 257 was enacted, and I have never been a legislator. However, all businesses should operate in compliance with the law.*

<sup>9</sup> <https://lawcat.berkeley.edu/record/1127358?ln=en>.

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2. You appeared on a May 12, 2022 video call with SEIU supporting a bill called A.B. 257 that takes away the independence of small business restaurant owners in California by creating a board of ten unaccountable, unelected government appointees to dictate wages and working conditions for small businesses. On the call, you stated in your official capacity that "The Department of Labor stands with you. The Biden-Harris Administration stands with you."<sup>10</sup>
  - a. What did you mean by that?
  - b. Will the Department of Labor under your supervision support policies to take away the autonomy of independent entrepreneurs, especially those in North Carolina?

*The May 2022 video call from which those remarks were taken was related to the release of a report on wage theft in the fast food industry. I did not comment on the FAST Act, which was a bill written and passed by the California legislature and signed by the Governor after I had already left my position in California. I was not involved in the bill in any way. In context, the remarks you cite above were in reference to wage theft and the Biden Administration's actions to prevent wage theft. They were not an endorsement of any particular piece of state legislation.*

3. The franchise business model is vital to our economy, creating millions of jobs and providing vital pathways for entrepreneurship. The joint employer definition is clear and fair, allowing franchisees to manage their businesses without franchisor interference. You have supported abolishing this longstanding definition and creating a new and unworkable joint employer standard. Specifically, under the proposal, if the government feels a franchisor had the ability to *indirectly* control the terms and conditions of employment for a franchisees' employees, joint employment is found, even if the franchisor *never actually exercised any control*.
  - a. Don't you agree that the new standard would be so broad and subjective that franchisors will have little choice but to exercise greater control over franchisees, to avoid risking legal liability, effectively robbing franchisees of their independence?

*The rulemaking proposal you are referring to is at the NLRB, an independent agency. I am not involved in the NLRB's joint employer rulemaking.*

4. In California, after AB5 was enacted into law, backlash was very high across many industries due to the fact the vast majority of independent contractors oppose being reclassified as employees. This led to exemptions from the law for over 100 industries.
  - a. Do you believe this process created winners and losers in a harmful manner?
  - b. Remembering that you stated in your testimony that the Department of Labor could not implement an ABC test via the rulemaking process, and that it would require a statutory change from Congress.

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<sup>10</sup> <https://twitter.com/NorCalFF15/status/1524895163201441792?s=20>.

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- c. What would your approach be to self-employment across different industries at the federal level?
- d. Should all industries be subject to a test similar to the one in California?
- e. Please specifically list out industries you would target for so-called misclassification over others, and why?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

- 5. Independent contracting has grown enormously in recent years, even during booms in the job market for traditional employee roles. This growth in freelancing comes despite constant attacks on independent contracting from people like yourself.
  - a. Why do you think independent contracting has grown so much despite constant attempts at undermining it?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

- 6. Many independent contractors are working mothers in need of flexible work to continue careers while raising children. Many independent contractors also have disabilities or are caretakers for loved ones with disabilities, which prevents them from working full time jobs.
  - a. Even if you think other workers benefited from AB5, is the tradeoff of harming working mothers and families with disabled loved one's worth it?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. Workplace flexibility is an important issue for all workers.*

- 7. The Department of Labor's regulatory agenda has repeatedly stated that a revised fiduciary rule is forthcoming.
  - a. Can you specify the timing of the rule, and when it will be released for public comment?

*A proposal has not been issued, but this continues to be a priority for the Department.*

- 8. The Department's previously proposed rule was effective prior to the enactment of the SEC's Regulation Best Interest.
  - a. How will the new rule reflect the changes that the financial services industry has made to comply with Reg BI?

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*As we move forward, we will consider the work of other regulators and new regulations issued since 2016, such as the Securities and Exchange Commission's Regulation Best Interest (Reg BI), as well as the prior administration's fiduciary advice exemption. The regulatory landscape is not the same as when the Department first began this project many years ago, and any proposal would reflect that.*

9. Do you support the Biden Administration's decision to rescind the "Form T-1" rule in 2021, which provided union workers with greater transparency to monitor how their union dues are being spent, especially since workers in 24 states may lose their job if they do not pay union fees? Considering you are someone who has long advocated for workers' rights against special interests, this decision should be concerning.
  - a. Did you agree with the decision to rescind a rule that gave workers more transparency over their own union dues?
  - b. Would you push rulemaking that increases transparency and accountability for union leaders regarding how they spend union dues?
  - c. Do you believe it is fair to be fired from your job if you are unable or do not pay union dues?

*As stated in a Notice of Proposed Rulemaking titled Rescission of Labor Organization Annual Financial Report for Trusts in Which a Labor Organization Is Interested, Form T-1 (86 Federal Register 28505 (May 27, 2021), and the ensuing Final Rule 86 Federal Register 74356 (December 30, 2021), the public, including members of labor organizations, already has access to reports containing similar, if not identical, information that would be included on a Form T-1, and the Department already has the necessary investigatory authority to identify and eradicate the specific fraud that the Form T-1 was purportedly meant to combat. Because the Form T-1 reporting requirements captured information already captured by the Form 990 and the Forms LM-2, LM-10, and LM-30, Form T-1 would have diverted OLMS resources and undermined already effective efforts at thwarting corruption.*

10. Over the past several years, the United Auto Workers union has been embroiled in massive scandal that has resulted in the indictment of more than a dozen current and former Presidents and Vice Presidents of the union for misusing workers dues on outrageous personal expenditures like golf trips and cigar parties.
  - a. What is your plan to improve transparency so union workers can see how their dues are being spent by union leaders, so a scandal like the UAW's never happens again?

*The UAW is an historic union whose members for generations have been a backbone of U.S. manufacturing and leaders within their communities. A few individuals within the UAW betrayed these members' trust, engaging in bribery, kickback, and embezzlement schemes. OLMS joined the investigation in its preliminary stages alongside the Department of Labor's Office of Inspector General (OIG) and the Federal Bureau of Investigation (FBI). The multi-agency investigation included the U.S. Attorney's Office for the Eastern District of Michigan, OLMS, DOL-OIG, FBI, and the Internal Revenue Service. Ultimately, 16 individuals were convicted for*

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*Yes. Although the Department of Homeland Security is charged with administering the statutory visa caps and approving H-2B visa petitions, I believe the Department of Labor serves a vital role in helping employers, including those in the Alaska seafood industry, access seasonal labor while safeguarding the wages and working conditions of U.S. and foreign workers. If confirmed as Secretary of Labor, I would welcome a future dialogue with you and other Members of the Alaska delegation about this important issue within the context of the Administration's goals to create a fair, safe, and orderly immigration system.*

- b. Do you find the current certification backlog acceptable?
- c. What are you doing now to clear the backlog and ensure certifications for H-2B visas are processed in a timely manner, particularly for the summer fishing and processing season? Can you assure us this will be on track by next month?

*The backlog is clearly untenable. Due to intense demand and a lack of additional DOL resources to process certifications, there has been a significant backlog of applications for H-2B labor certification. If confirmed, I commit to working with Congress to address the problem of the lack of sufficient resources to respond to surging demand in the H-2B program. Further, as noted in your question, DHS has adopted a summer set-aside to help address the specific problem referenced above but a long-term, sustainable solution will require congressional action.*

- 2. All throughout Alaska, I'm struck by the number of "Help Wanted" signs that I see. Across the board, I hear from employers of all sizes that it is difficult to find and retain workers. I know is this is a national problem and the data is alarming. I could go on down the line but here are few notable factoids:

In a speech last November, Fed Chairman Jerome Powell noted that there is a current labor force shortfall of roughly 3 to 3.5 million people and overall labor force participation remains well below pre-pandemic trends.

Although the March unemployment rate is down to 3.5%, as of February there were 9.9 million job openings across the United States. Moreover, I am told that that the U.S. will need to add millions of jobs a year to maintain the ratio of working-age to over-65 population.

- a. What is your background and experience with overseeing job training or workforce recruitment programs?

*When I ran California's labor department I oversaw and was engaged with expanding and strengthening a range of job training programs and efforts. This included with the State's Workforce Development Board that oversees the state's publicly funded workforce system as well as innovative regional workforce training partnerships, the Employment Training Panel that provides resources to support on-the-job training for employers and California's Division of Apprenticeship Standards (DAS) at a time of accelerating expansion of Registered apprenticeship programs in new industry sectors such as cybersecurity, healthcare, and more.*

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*For nearly two years at the U.S. DOL, including both my time as Deputy Secretary and now Acting Secretary, I have provided oversight and direction to DOL's Employment and Training Administration's Office of Apprenticeship.*

- b. What outreach and coordination have you done across this administration to address this problem? How many jobs has the *Good Jobs* program created?

*The Biden Administration has focused on reshoring manufacturing capacity, rebuilding ecosystems of ingenuity that drive good job creation, and building resiliency through domestic supply chains. This work, combined with the DOL's Employment and Training Administration's ongoing workforce development efforts, is making a difference. The U.S. economy has added a record 12.6 million jobs, and the unemployment rate has been below 4 percent for more than a year — close to the lowest it has been in more than 50 years, and Black unemployment is at its lowest ever recorded. This was not by accident. The American Rescue Plan led to the fastest recovery from the pandemic recession of any major economy in the world.*

- c. Regarding apprenticeships, I think we can all recognize we need to be encouraging the development of skilled labor in all sectors of the economy but especially building and construction trades. Why do you believe that registered apprenticeships are the only way to achieve this goal?

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries – because Registered apprenticeship works. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention.*

*While Registered apprenticeships have a well-established history in the construction trades the Department has made strategic investments and cut red tape to generate growth across a range of industry sectors, helping employers address critical talent needs in manufacturing, finance, information technology, healthcare and more. Since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers newly participating in the Registered Apprenticeship system across diverse areas from trucking to cybersecurity, to K-12 teachers.*

*While there is unique value to Registered apprenticeship, it is only one of a wide range of workforce training efforts the Department is leading and investing in. Other earn and learn programs, as well as workforce training programs in partnership with community colleges, community-based organizations, industry groups, state and local governments are actively and broadly supported by the Department through targeted grant investments as well as through programs supported at the state and local level through funding administered by the Workforce Innovation and Opportunity Act.*

*The Department is committed to ensuring federal workforce investments are meeting the needs of a number of critical industries and reaching diverse regions and populations through a range of*

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*workforce training strategies including paid internships, short-term training with stackable industry recognized credentials, upskilling and on-the-job training. Such grant investments include expanding community college-industry training partnerships through multiple rounds of the Strengthening Community Colleges grants; new dedicated training investments for critical occupations such as nursing, manufacturing and engineering; multiple rounds of Workforce Opportunities for Rural Communities grants implemented in partnership with Appalachian Regional Commission and the Delta Regional Authority; as well as annual grants targeted supporting youth employment and reentry workforce opportunities for justice-involved youth and returning citizens. The Department is committed to working with Congress to expand the scope of and strengthen the results of these critical investments in job training through needed targeted investments as well as programs supported at the state and local level through the Workforce Innovation and Opportunity Act.*

- d. Relatedly, given the influx of federal investment in projects around the country, including rural and urban Alaska, how will the Department of Labor ensure compliance with safety standards and prevailing wage requirements nationwide?

*The Department will be investing in and building up resources to help workers understand their rights and empower them to seek assistance from DOL's enforcement agencies, where applicable. These tools will put information directly into workers' hands on a platform that will be optimized for accessibility for all workers over time, including younger workers and those with limited English proficiency.*

*The Department is also mindful of the increased needs for effective enforcement of labor laws given the size of the federal investment that will result from IIJA, including the prevailing wage protections of the Davis-Bacon and Related Acts. In addition, IIJA will increase the number of contractors and projects under OFCCP's jurisdiction. Accordingly, the Department of Labor will seek to dedicate more resources to increase the capacity of DOL's enforcement agencies as well as craft more opportunities for strategic engagement. OFCCP offers contractors and subcontractors extensive compliance assistance, conducts compliance evaluations, and helps to build partnerships across the public and private sectors.*

- e. What strategy would you use to expand workforce development and pre-apprenticeship programs to meet the growing demand for skilled workers arising from the IIJA, IRA, and CHIPS? This could be particularly relevant with new energy technologies.

*The Department is focused on working closely with a range of public and private sector partners to use the resources we have to support the workforce needs generated by these historic investments. We are working with the Departments of Commerce, Energy and Transportation, as well as a range of industry and labor partners to expand workforce training programs and pre-apprenticeship pathways to careers.*

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*Given the unique results and potential of Registered apprenticeship, we are using the funding Congress provides to [award](#) grants, contracts, and cooperative agreements that support building successful public/private partnerships to incentivize apprenticeship programs in key sectors, including clean energy. The entities receiving funding are expected to collaborate with employers, industry associations, labor unions, intermediaries, and workforce and educational entities. For example, the Department recently awarded 30 grants as part of the [Apprenticeship Building America grant program](#) to expand, diversify, and strengthen the Registered Apprenticeship system through support for public and private partnerships designed to serve a range of industries and individuals. The Department also dedicated a set of those funds specifically for pre-apprenticeship pathways to open up access for women and other underrepresented workers.*

*In addition to apprenticeship, the Department is aligning the focus of a range of workforce investments to meet the needs of BIL, CHIPS, and IRA. This includes designing new grant programs to reach critical industries – such as clean energy – reaching diverse regions and populations through a range of workforce training strategies. This includes launching a new \$80 million Building Pathways to Infrastructure Careers grant program this year that targets advanced manufacturing, clean energy and engineering, as well as ongoing investments through the Strengthening Community Colleges grants, targeted support for youth pre-apprenticeships in programs such as YouthBuild, and positioning Job Corps Centers to be an entry point for youth to the jobs generated by these historic federal investments.*

- f. How would you follow up on the White House Task Force on Organizing and Worker Empowerment to ensure that the implementation helps workers in Alaska?

*The Task Force is focused on ways to support worker organizing and collective bargaining broadly through existing statutory authority. I would be happy to discuss the Task Force recommendations with you to identify initiatives of particular importance to workers in Alaska.*

3. At the same time our country is facing a structural workforce shortage, the federal government is making unprecedented investments in public infrastructure in almost every sector of the economy. When I look at your record, especially related to independent contractor (IC) status, I'm concerned that you – and thereby the Department of Labor – are and will be too concerned about the way in which people want to work, whether it is as an independent contractor or full-time employee, versus focusing on how to get people into the workforce regardless of the way they want to participate. In many instances, workers actually prefer to retain their IC status.
- a. Please explain to me your views on the role of independent contractors in the economy and what value they provide?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

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- b. During your tenure in California and through the AB5 process, did you consider workers that prefer to retain their IC status? As Secretary of Labor, would you consider worker preferences of all types during rulemakings?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*The comment period for the independent contractor proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. I will always take all viewpoints into account when engaged in rulemaking. I believe that hearing from the regulated community is a key part of the notice-and-comment rulemaking process.*

4. Approximately, 75% of the consumables that come to Alaska cross the Port of Alaska in Anchorage. The Alaska supply chain is nearly entirely dependent on waterborne commerce from West Coast ports, most notably Tacoma, Washington. The carriers that service Alaska operate across the West Coast ports. Traditionally, labor negotiations have respected supply chains that impact noncontiguous states but we seem to be entering a new era of brinkmanship, as evidenced by the recent rail labor negotiation that required Congressional action to save the national economy from a supply chain crisis.
- a. Please provide me a few concrete examples of when you have successfully negotiated a complex labor agreement?

*I believe in working with all stakeholders to accomplish the mission of the Department of Labor. Throughout my career in government, I have always listened to both employers and employees, and individuals across the political spectrum. There are a number of business groups that support my nomination and businesses that I have worked with in the past would tell you that I am a fair broker.*

*In a recent example, I have supported the International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA) as they negotiate a collective bargaining agreement that covers more than 22,000 longshore workers at 29 U.S. West Coast ports. The parties recently announced significant progress in these negotiations. The Executive Director of the Port of Los Angeles sent a letter to this committee supporting my nomination stating, "Acting Secretary Su – as California Labor Secretary and US Deputy Secretary of Labor – has successfully navigated this environment over the years by bringing together (with POLA serving as a co-host) port authorities, labor unions, the trucking community, and private sector employers to discuss how the various stakeholders can work together on issues such as worker centered training, health and safety of essential workers that continued to work during the Covid-19 pandemic, or how to introduce cleaner equipment and vehicles to this industry while*

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*supporting the workforce most directly impacted by the new technology. Her collaboration and knowledge of this goods movement industry makes her confirmation critical, now more than ever, as global and national supply chains continue to re-balance after the Covid-19 pandemic."*

*I also worked side by side with Secretary Walsh in the 20-hour bargaining session that resulted in tentative agreements for the three freight rail unions that had not yet reached agreement with the freight railroads. I acted as a neutral arbiter, trying to help the parties find common ground and reach agreement. We were successful in reaching tentative agreements that were approved by the railroads and by freight rail union leadership. However, two of the agreements were later voted down by the union's membership. Eight of the twelve rail unions reached agreements that were ratified by members.*

5. Ted Stevens International Airport in Anchorage, Alaska is the third-busiest cargo airport in the world. UPS is one of the largest tenants and operators there. A strike between UPS and the Teamsters could have devastating impacts for our economy and the global supply chain and would directly impact Alaska.
  - a. What involvement have you had in this negotiation?
  - b. What steps are you prepared to take as the Secretary of Labor to help ensure our nation's supply chains don't come to a screeching halt?

*It is my understanding that the parties only started negotiations on April 17, 2023. The collective bargaining agreement expires at the end of July 2023. The Biden Harris Administration is committed to keeping supply chains moving. I have been part of many supply chain discussions in this area and will continue to be.*

6. Alaska like every other state and even country needs more truck drivers. I know the department has been part of a program to expand opportunities in the trucking industry generally using registered apprenticeship programs. However, a lot of my constituents are small businesses of one or two trucks and a lot of independent contractors work seasonally or full time in Alaska. I am very concerned that your proposed rule on ICs will make it difficult for freight companies in Alaska to hire IC drivers. It's also really concerning that the Department is taking the position that providing training and additional equipment to an IC converts them to an employee. Alaska companies frequently help new owner-operators with training and equipment for their benefit, and as a state because it's the right thing to do.
  - a. Can you commit to ensuring that the department's final rule ensures that Alaska's independent truckers are able to work with the entities they contract to improve safety without fear of added liability under the Fair Labor Standards Act?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will. DOL's proposed independent contractor rule proposes to rely on the long-standing, multi-factor "economic reality" test used by courts that considers the totality of the circumstances to determine whether a worker is an employee or independent contractor under the FLSA. Our*

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*proposed rule reflects the long-standing Department guidance and judicial precedent on this issue, and represents the direction that DOL proposes to go in on this issue. If finalized, it would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts. The Department will carefully consider the comments received in drafting a final rule.*

7. It is widely documented that the passage of AB 5 led to a mass exodus of independent contractors from the state of California, particular owner-operators of trucks, many of whom sought guidance from your office about how the law would apply to the trucking industry, and when AB 5 was being debated, urged against a one-size-fits all solution to address the problem.
  - a. As trucking was one of the industries still subject to the law, yet is essential to our supply chain. Do you still believe your characterization of that occupation as an "odd job" in need of re-classification appropriate?
  - b. In a letter opposing your nomination, OOIDA asserted that despite their best efforts, they were "left essentially no guidance before the law took effect" with "the law and its haphazard rollout" forcing "independent contractor truckers to leave the state of California, become an employee, attempt to reconfigure their business, operate under a cloud of uncertainty, or abandon the trucking profession altogether." OOIDA is an independent organization not aligned with either party. As Secretary of Labor, you will be required to engage with stakeholders on an equal footing. How does OOIDA's characterization of your lack of outreach inspire confidence?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

8. The US Department of Labor was provided funding from Congress for the purpose of helping states modernize their aging UI systems. Alaska is one of the states that needs assistance from USDOL for this kind of project, which is estimated to cost \$50 million. However, US DOL has not allocated and dispersed that funding.
  - a. Acting Secretary Sun's answer was nonspecific related to the state of Alaska. What is the status of Alaska's funding for the modernization of its UI IT systems?

*Alaska has received a Fraud Prevention Grant \$1,228,000 to support fraud detection and prevention, including identity verification and overpayment recovery activities, in all UC programs. Alaska has already qualified for \$1.75 million to implement recommendations from a multi-disciplinary expert Tiger team, and is set to receive hands on IT assistance from the Department's Office of the Chief Information Officer to assist with the implementation of these recommendations. As indicated in the Presidents FY 2024 budget, the Department will soon be providing \$600 million in UI modernization funds to states for information technology modernization, and we have been consulting with smaller states to make sure each state can use their share of funding to make meaningful change to improve the resilience of their systems.*

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9. There are provisions in WIOA that require a significant amount of data from both the job seeker and the employer. This can, at times, create a large time burden for either party, which has often resulted in a decrease in services to both parties. Additionally, this data must also be managed and protected by the state.
- a. Would you review federal regulations to remove burdensome and unnecessary requirements that slows down the abilities of states to more quickly serve Americans looking for employment or training?

*Yes. I am committed to ensuring that the services the DOL provides are delivered efficiently and effectively. We look forward to working with Congress on the timely reauthorization of the Workforce Innovation and Opportunity Act as a critical opportunity to strengthen this system and the services it offers to workers and employers.*

10. Alaska's restaurant industry has voiced concerns about federal restrictions on the use of toaster ovens for 14- and 15-year-old workers. 29 CFR 570.33(h) prohibits 14- and 15-year-olds from performing numerous cooking tasks, but Alaska's restaurant industry has said restrictions on baking activities (such as the use of toaster ovens) are overly burdensome and has limited youth employment at restaurants in Alaska. Alaska's employers, especially those in coastal communities, are also concerned about restrictions on youth (ages 14-15) working in transportation. The restrictions found in regulation 33.c20(c)(1) prohibit work performed on boats, and (2) lists work on docks and wharfs. Alaska is a coastal state, and many of the employment opportunities are on the dock, or on boats. These restrictions limit employment opportunities for Alaska's youth.
- a. Alaska's coastal and river communities depend on waterways for their livelihood. Federal regulations limits employment opportunities for Alaska's youth in many of our smaller communities. Engaging youth with employment is a key step in the life of young Americans. How will you ensure that there are plentiful opportunities for young Americans to find legal, safe employment opportunities?

*The Department is committed to growing paid, meaningful and safe work experiences for our youth, which is why the Department this year launched the Youth Employment Works strategy. Through this effort we are partnering with a range of private and public sector partners to ensure all of our young people can get the real work experiences they need to connect with the labor market and start a career.*

*I particularly believe that apprenticeship and workforce training opportunities should be available to all youth, and should connect to our high schools*

*If confirmed, I would be happy to engage with your office in this important work.*

11. Alaskans with Disabilities (Vocational Rehabilitation): With WIOA in 2014, 15% of our

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federal award must be applied annually for pre-employment activities for youth with disabilities in the educational system. Some states have had to impose an "order of selection" to meet this requirement, and therefore not all citizens can access vocational rehabilitation services in a timely manner, and some are put on a wait list. The additional administrative burden placed on VR programs, through WIOA, has resulted in more VR staff working behind a computer, and less one-on-one time with their clients (persons with disabilities).

- a. There are many Americans with disabilities that want to work. How will you advocate for these Americans that have to face lengthy delays, and often through several layers of bureaucracy, to support their goal of joining the workforce?

*Although Vocational Rehabilitation is a program of the US Department of Education, we work closely with them to provide supports for workers with disabilities through many avenues, including, but not limited to, the American Job Centers. DOL's Office of Disability Employment Policy's mission is to develop and influence policies and practices that increase the number and quality of employment opportunities for people with disabilities. Additionally, DOL's technical assistance centers provide trainings and consultations for workers and employers related to all stages of the employment lifecycle. We also have a number of initiatives where we work with states, service providers, families, and individuals with disabilities to increase opportunities for competitive integrated employment and to improve employment outcomes for youth with disabilities. If confirmed, I would look forward to working with your office on how we can do more in this area.*

**Senator Rand Paul's QFRs (R-KY)**

1. Deputy Secretary Su, I hope you understand the important role that farmers play in this country, and I would expect you to have some understanding of that coming from your time in California, given its status as a top state in agricultural cash receipts. The Department of Labor, however, has recently taken actions that will make it harder to domestically produce the food, fuel, and fiber we all rely upon and enjoy as Americans. Specifically, in February, the Department issued a final rule on the H-2A program's Adverse Effect Wage Rate (AEWR), which introduces new challenges for family farms to navigate in an already difficult program. The outcome of this "adverse effect" has been this wage rate, which seems to grow in volatility and unpredictability each year. The transparency from the Department on how they derive the AEWR has been lacking in recent years.
  - a. Will you commit to working with the Committee to expedite and improve the data publicly available on the H-2A program and the AEWR specifically?
  - b. Will you commit to working with the Committee and agriculture stakeholders to improve the burdensome H-2A paperwork processes?

I think you will find that by and large, farmers and other small business owners do what they can to take care of their employees, and additional regulations are often not the answer to problems that significantly include individual circumstances and personal risk factors. I would encourage the Department of Labor to reconsider its role in this effort.

*If confirmed, I commit to working with the Members of this Committee on this important issue.*

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2. Many federal regulators are bound by law to follow notice-and-comment rulemaking and to conduct an economic analysis before issuing regulations that increase burdens on private parties.
3. Should the Department of Labor also have to follow this practice? If not, why not?  
*In our rulemaking, the Department adheres to the requirements of the Administrative Procedure Act, including when it requires notice-and-comment rulemaking, and the agency conducts the economic analysis required under Executive Order 12866, the Regulatory Flexibility Act, and other appropriate laws.*
4. Under some interpretations of the Fair Labor Standards Act, consumer food co-ops can face liability if they do not classify as employees' members who volunteer for tasks such as restocking grocery shelves. As a result of a 1997 DOL opinion letter, many grocery co-ops have discontinued member volunteer programs.
  - a. Do you believe the Department has reached the right result in this area?  
*The Department would be happy to connect with your office to further discuss this issue.*
5. Some advocacy groups have proposed legislation expanding the use of criminal liability under federal labor law, including liability for individual managers, supervisors, and executives. Some of these proposals seek to bypass the principle of mens rea as a legal prerequisite for establishing criminal intent.
  - a. Do you favor criminal penalties for labor violations in situations where mens rea cannot be proven to the standards of criminal law?  
*Expanding such criminal penalties is within the purview of Congress.*
6. The position of Deputy Secretary of Labor is not specifically defined in statute. Its role and duties are left to the Secretary to describe.
  - a. What role did you play as Deputy Secretary?  
*I served as the chief operating officer of the Department and worked hand in hand with Secretary Walsh to lead a resurgence in workforce training, avert a national rail shutdown, and other DOL accomplishments over the last two years.*
7. What involvement did you have in each of the following matters?
  - a. The Wage and Hour Division's effort to rescind the Trump Administration's rulemaking on independent contractors;
  - b. The Wage and Hour Division's rescission of the Trump Administration's rulemaking on joint employment under the FLSA;
  - c. The Wage and Hour Division's rulemaking to revise the definition of an independent contractor under the FLSA;
  - d. The Wage and Hour Division's expected rulemaking to revise the regulation on when an employee is exempt from being paid overtime under the FLSA;
  - e. OSHA's effort to finalize the COVID-19 emergency temporary standard (ETS) for healthcare facilities.

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*Secretary Walsh and I established an agenda for our component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, OASP, and SOL to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

8. What policies and approaches used in California would you like to bring to the federal level and the DOL?

*If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

9. Everyone associated with the Wage and Hour Division's rulemaking on independent contractors has already conceded that DOL cannot do an A.B. 5 type of rulemaking. You are closely associated with the A.B. 5 approach in California, which would have virtually eliminated the ability of employers to contract with independent contractors.

- a. Do you think the approach of California's A.B. 5 is a good approach?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*I agree with the analysis in the Department's proposed rule on Employee or Independent Contractor Classification under the Fair Labor Standards Act that DOL does not have the authority to implement an ABC test as found in the California state law AB 5. As explained in the proposed rule, the Department believes that it could only implement an ABC test if Congress passes legislation that alters the applicable analysis under the FLSA or if the Supreme Court revisits its precedent.*

10. California requires employers to pay overtime to employees after 8 hours of work per day rather than the federal standard of 40 hours per week.

- a. Do you think California's approach in this regard is better than the federal one?

*The California legislature, of which I have never been a part, enacts California state laws. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

11. California also requires employees to perform exempt duties for more than 50% of their work time to qualify as exempt.

- a. Do you think that requirement is a good approach?

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*The California legislature, of which I have never been a part, enacts California state laws. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

12. How closely involved have you been in the West Coast Ports negotiations?

*I know the parties to the West Coast port negotiations well from my time in California. I have been in regular touch with the parties since before negotiations began in May 2022. My role has been to support the parties and encourage them to work to reach an agreement.*

13. What thoughts do you have on what kind of deal will resolve the dispute at the ports?

*My role is not to determine what the content of a collective bargaining agreement should be, but rather to support the parties as they work together to negotiate the terms of an agreement.*

14. Would you consider a Taft-Hartley injunction to keep the West Coast Ports open?

*The parties have continued to negotiate since the expiration of their collective bargaining agreement in July 2022, and cargo has continued to move through the ports. Taft-Hartley injunctions are the prerogative of the President, not the Secretary of Labor.*

15. What specific steps would you recommend reducing unemployment insurance (UI) fraud as Secretary of Labor?

*From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

- *Program integrity is of the utmost importance to the Biden-Harris Administration. To date, the Administration has directed more than \$465 million in grant funding toward fraud prevention, detection, and recovery within the UI program; these were among the Administration's earliest and highest priority investments. States have used these grants to set up new systems for data analytics and cross matching; to bolster resources for overpayment recovery and fraud investigations; and to set up systems for automatic identity verification.*
- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
- *The Department assembled teams of multi-disciplinary experts designed specifically to analyze state UI systems and process challenges. These **Tiger Teams** have delivered tailored technological, operational, and administrative recommendations to 30 states so far, including many recommendations that directly address integrity like identity proofing*

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*and authentication, claims risk scoring, and investigative claims management tools. On November 2, 2021, the Department announced \$200 million in funding available to states to improve UI systems to implement recommendations from the Tiger Teams.*

- *The Department has prioritized **identity verification** to prevent identity theft from being used to fraudulently obtain UI benefits. The Department issued guidance to states on April 13, 2021, reiterating their responsibility under the Social Security Act to have a system to ensure that the name and Social Security Number used to establish eligibility for UI benefits belong to the individual filing a claim, and providing best practices on how to do so. The Department is also deploying funds from the ARPA to pilot the use of the General Service Administration's (GSA) Login.gov platform as an identity verification solution, starting in the state of Arkansas and expanding to additional states this year. We are also partnering with the US Postal Service to provide in-person verification options that can reach rural populations and others that can struggle with digital identity verification.*
- *The Department has initiated **technology pilot projects** with select states to develop technology tools that all states can scale, leverage, and adopt as they pursue the modernization of their benefit and tax systems. Throughout the course of this fiscal year, Department funding and technical support to states will ensure that digital experiences can promote accurate and efficient payment of benefits, anticipate change, and effectively integrate anti-fraud technologies into state UI systems. For example, the Department will be promoting incremental approaches to technology modernization that will help states incorporate modular technologies that can quickly implement new program requirements or new technology mechanisms and workflows to screen out potentially fraudulent claims. The Department is consistently making these tools available to the states as they are developed.*

*The Department has emphasized the need for states to refer allegations of fraud, waste, abuse, mismanagement, and misconduct to the Department of Labor Office of Inspector General (DOL-OIG) and has facilitated DOL-OIG's access to state UI data on potentially fraudulent claims so that criminal actions perpetrated against the unemployment system can be prosecuted.*

16. Do you believe that the Department of Labor has the authority to include an inflation adjustment in any pending overtime rule?

*To ensure overtime laws reflect the realities of today's workplace and that federal law provides meaningful protections for workers and their families, we are currently reviewing the regulations governing the exemption of executive, administrative, and professional employees from the Fair Labor Standards Act's overtime requirements. Recognizing that our economy is always changing, it is important that the adoption and implementation of our laws and regulations reflect our modern economy. This is an issue and regulation that, if confirmed, I plan to review carefully.*

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17. The Office of Labor-Management Standards (OLMS) has recently started asking businesses to file persuader reports when they send their own company officers out to their own company facilities to discuss issues related to collective bargaining. To my knowledge, the underlying statute (the Labor-Management Reporting and Disclosure Act) has never been interpreted in this way. This approach also seems contradictory to the OLMS interpretive manual.

- a. Can you explain why OLMS is targeting businesses in this way?
- b. What policy guidance has the Department developed to justify this novel approach?

*Under longstanding policy, OLMS cannot confirm or deny the existence of an investigation. The LMRDA identifies those expenditures that labor organizations, employers and consultants must report. With respect to employer reporting obligations, expenditures that must be reported are described in Section 203(a) of the LMRDA and OLMS works to ensure that all expenditures identified by the Act are being fully reported.*

18. Do you view employers as being partners with DOL?

*Yes. I regularly meet with and listen to employers. I believe that we make the best policy when we hear from all stakeholders. I think constructive engagement can be incredibly helpful to sharpening our viewpoints and policy ideas.*

19. The Department of Labor has a memorandum of understanding (MOU) with the National Labor Relations Board (NLRB).

- a. What type of information has the Biden Administration's DOL been sharing with the NLRB?
- b. What information has DOL received from the NLRB?

*As it pertains to OLMS, on December 29, 2020, the Department of Labor entered into a Memorandum of Understanding (MOU) with the National Labor Relations Board, Office of General Counsel (NLRB). The MOU provided that "DOL and the NLRB recognize the value to each agency of sharing investigative information as permitted by law. DOL and the NLRB further recognize that certain information maintained may benefit investigative activities of both DOL and the NLRB. The sharing of such information between DOL and the NLRB on a controlled basis facilitates efficient investigations. DOL and the NLRB will execute a formal information sharing agreement at a future date." On November 20, 2021, the parties executed the Memorandum of Agreement (MOA). Under the MOA, the Department and the General Counsel of the NLRB share information developed in their respective investigations that would be helpful to the other Agency's investigations.*

20. Do you think that most independent contractors would prefer to be employees, or do you think they value the freedom to set their own hours?

*I expect that there are a multitude of opinions among independent contractors. The comment period for the independent contractor proposed rule closed on December 13, 2022, and we*

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*received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views.*

21. Can you explain how ride-share or delivery services would function if the users of their platform were declared employees?
- a. How would they handle overtime pay?
  - b. How would they handle minimum wage requirements?

*DOL's proposed independent contractor rule proposes to rely on the long-standing, multi-factor "economic reality" test used by courts that considers the totality of the circumstances to determine whether a worker is an employee or independent contractor under the FLSA. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue, and represents the direction DOL proposes to go in on this issue. If finalized, it would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts and does not propose industry-wide reclassification.*

*The comment period for the independent contractor proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in determining next steps in this rulemaking, and cannot express a position in the meantime.*

22. The Department of Labor has issued numerous press releases proclaiming the sums recovered in misclassification cases.
- a. Doesn't this suggest that the Trump independent contractor rule, under which you are operating, is working well?
  - b. If you agree with what's in your own press releases, why are you seeking to change the rule?

*Misclassification of employees as independent contractors hurts workers, businesses that want to play by the rules, and our economy. The Department continues to ensure that employees receive the minimum wage and overtime pay protections under the FLSA. In October 2022, the Department issued a proposed rule on employee or independent contractor classification under the FLSA, including a full analysis of relevant case law and economic impacts of the proposed rule.*

23. As you know, negotiations between the Pacific Maritime Association, which represents employers at the nation's West Coast ports, and the International Longshore and Warehouse Union have been ongoing for over 10 months with very little progress. The contract expired last July, and the parties have been working without a contract in place. Failure to resolve these negotiations could have devastating consequences for the U.S. economy generally and for retailers specifically. We witnessed disruptions impacting the Ports of Los Angeles and Long Beach a couple of weeks ago when all the terminal gates were closed because labor didn't show up. Recently, over 230 associations wrote a letter to the Administration

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encouraging more engagement with the parties. Some stakeholders have raised concerns that during the negotiations over A.B. 5 and other policy issues, you discounted the business perspective and struggled to come to a workable solution for all parties. A.B. 5 is an example of this, as it was at the end rejected by the voters.

- a. Given these concerns, can you please articulate your plan to work with the parties to achieve a new contract and avoid further disruption at the West Coast ports that would impact the U.S. economy?

*I have been in regular contact with the parties to the negotiations to urge them to work to reach an agreement. The parties are making progress, as evidenced by the press releases about a tentative agreement on key issues earlier this week. I will continue to stay in contact with the parties and offer my support to them.*

24. The Department of Labor is already promulgating new rules regulating how and when workers can engage in work independent of traditional employment. When you led the California Labor and Workforce Development Agency, you spearheaded initiatives that jeopardized independent contractor models. You led the charge on A.B. 5, a bill that would have left millions unsure as to whether they could continue to work as independent contractors. Eventually, the law proved so unpopular that voters of California overwhelmingly rejected it.

- a. As the Department addresses the independent contractor issue, how will your approach differ from the approach you took in passing its controversial A.B. 5 law?

*The California legislature, of which I have never been a part, passed AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

25. There has been substantial discussion that your views on the proper role of independent contractors in our economy may be too narrow and we can expect you to promote policies that limit opportunities for independent work despite the flexibility such work can provide to parents and other caregivers.

- a. Can you provide me with 5 to 10 examples of work that you believe could be done legally by independent contractors seeking such flexibility?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will. DOL's proposed rule on employee or independent contractor classification under the FLSA proposes to rely on the long-standing, multi-factor "economic reality" test used by courts that considers the totality of the circumstances to determine whether a worker is an employee or independent contractor under the FLSA.*

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*The Department issued a proposed rule on employee or independent contractor classification under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime.*

26. DOL is considering raising the salary threshold at which employees can be exempted from the Fair Labor Standards Act. Currently, that level is \$36,500. Congressional Democrats have pressured DOL to raise the threshold as high as \$82,000. Should the Department increase the exemption threshold to this level, over 20 million workers will be affected. Such changes would cause employers to reassess compensation packages for millions of workers nationwide. Millions of workers would be converted to hourly from salaried, have their hours reduced, have their base wages reduced, experience reductions in their bonuses and benefits, and have fewer career development and remote work opportunities. The Obama Administration made changes to these standards which were eventually struck down by the federal courts. The Department is currently considering similar changes.
- a. How will you ensure that these new rules will not suffer the same fate in court?
  - b. My understanding is that if an employee is changed from salaried to hourly because of this rule, the employer is responsible for tracking the employee's hours and is liable for failures to do so. It seems to me this potential liability might end up reducing opportunities for employees where tracking hours is difficult – such as traveling for career development or working remotely. What is your plan to address these potential negative impacts for affected workers?

*To ensure overtime laws reflect the realities of today's workplace and that federal law provides meaningful protections for workers and their families, we are currently reviewing the Fair Labor Standards Act's regulations governing the exemption of executive, administrative, and professional employees. The last overtime rule came out in September 2019, and that rule itself declared that the Department intends to update the operative salary thresholds more regularly in the future. Much has changed in the economy since then. That is why we are listening to people across the country. Recognizing that our economy is always changing, it is important that the adoption and implementation of our laws and regulations reflect our modern economy. A new effort would require careful analysis examining all the issues mentioned in prior answers. During rulemaking, I would instruct the DOL's WHD to take into account the views of all stakeholders to help determine the appropriate threshold. This would be done through the notice-and-comment rulemaking process, which has not yet occurred as no proposal has yet been issued. The DOL would consider all stakeholder input received through the notice-and-comment rulemaking process.*

27. DOL is currently considering issuing new OSHA standards regarding the airborne transmission of illnesses. As Secretary of the California Labor and Workforce Development Agency, you oversaw the implementation of California's emergency COVID-19 workplace

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safety rule. Without even so much as a notice-and-comment process, you chose to hold employers liable for something they neither caused nor created. Your rule was used as a model for the Biden Administration's OSHA emergency temporary standard (ETS) on COVID vaccination and testing, which was eventually struck down by the Supreme Court. You now seek to lead the Labor Department, of which OSHA is a part.

a. In your view, what is OSHA's role in regulating airborne contagions?

*OSHA directs its enforcement and regulatory actions to ensure that employees are protected against hazards in the workplace, including the hazard of COVID-19. OSHA will continue to carry out this mission and will use all tools provided under the Occupational Safety and Health Act in doing so.*

*The constantly evolving nature of COVID-19 has created many challenges. Throughout the last three years, the Occupational Safety and Health Administration (OSHA) has worked closely with its federal partners, including the Food and Drug Administration, National Institute for Occupational Safety and Health, and the Centers for Disease Control and Prevention (CDC), to implement a government-wide strategy to protect the health of working people. OSHA's guidance and standards have, where appropriate, maintained consistency with CDC recommendations.*

28. You also led California's Employment Development Department (EDD) during its unprecedented mismanagement of COVID-19-related unemployment insurance funds. Under your tenure, EDD issued an estimated \$30 billion in fraudulent payments, hundreds of thousands of Californians experienced delays in receiving their benefits, and thousands were improperly denied benefits. The California State Auditor stated, "EDD's inefficient processes and lack of advanced planning led to significant delays in its payment of UI claims."

a. Do you now agree with the California State Auditor's assessment?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

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*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me and also the same Thomson Reuters tools used by federal law enforcement. These efforts prevented over an estimated \$125 billion in attempted fraudulent payments. At the Department, I've continued to press state systems across the country to use data analytics and cross matching to prevent claims before they occurred.*

*To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was no ability to work. This prevented further delays the payment of claims. The State Auditor did not attribute the increased fraud to these decisions. While battling fraud, California also succeeded at processing payments at rates that exceeded most states. California embraced an all hands-on-deck effort to rework customer service processes and technology to unlock bottlenecks to paying benefits out to families in need.*

**Senator Tommy Tuberville's QFRs (R-AL)**

1. Fiduciary-only advisors generally require account holders to invest at least \$100,000 up front, which is more than many working-class Americans have in retirement savings. It is also worth noting that fiduciaries generally charge an ongoing asset-based fee. This assets under-management fee model is biased toward wealthy clients with significant assets and against working-class families who would benefit from purchasing an annuity. A fiduciary-only approach would severely limit savings options for Americans looking to secure their financial future. The result could be ruinous to millions of Americans, denying them of hundreds of millions of dollars in retirement savings.
  - a. Why would DOL engage in a rulemaking that would limit consumer choice?

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*The Department has on its regulatory agenda [a rulemaking project](#) that would propose an amendment to the regulatory definition of the term fiduciary set forth at 29 CFR 2510.3-21(c) to more appropriately define when persons who render investment advice for a fee to employee benefit plans and IRAs are fiduciaries within the meaning of section 3(21) of ERISA and section 4975(e)(3) of the Internal Revenue Code.*

*The proposed amendment would consider the practices of investment advisers and the expectations of plan officials, participants, and IRA owners who receive investment advice, as well as developments in the investment marketplace, including the ways in which advisers are compensated that can create harmful conflicts of interest.*

*Any ultimate proposal will consider the work of other regulators and new regulations issued since 2016, such as the Securities and Exchange Commission’s Regulation Best Interest (Reg BI), as well as the work of the prior administration and its fiduciary advice exemption. The regulatory landscape is not the same as when the Department first began this project many years ago.*

*In conjunction with this rulemaking, EBSA will also evaluate available prohibited transaction class exemptions and propose amendments or new exemptions to ensure consistent protection of employee benefit plan and IRA investors. While these changes have been important and beneficial, it is important to recognize, however, that they do not uniformly apply to all retirement investors. For example, Reg BI does not cover recommendations to plan fiduciaries, such as small plan sponsors who are dependent of investment experts for sound advice on how to construct their plan investment menu, or to recommendations of assets other than securities.*

*The new fiduciary advice exemption issued by the prior administration, PTE 2020-02, which [went into effect on February 16, 2022](#), is a significant development. The exemption is not mandatory, and not everyone has to implement PTE 2020-02 as part of their business model. We are also considering how the fiduciary rule and associated exemptions could be revised in a way that promotes a level playing field between different types of advisers to retirement investors, without any unfair disadvantage to firms and investment professionals that chose to implement PTE 2020-02 and acknowledge fiduciary status.*

2. In 2019, the Securities and Exchange Commission (SEC) adopted Regulation Best Interest (“Reg BI”) that imposes enhanced standards of conduct requirements on broker-dealers and their registered representatives when making a recommendation regarding securities, including variable annuities, to a consumer. In 2020, the National Association of Insurance Commissioners (NAIC) adopted a model regulation for states to consider that aligns with Reg BI and applies to financial professionals who recommend to consumers annuities that are not equity-based and SEC regulated. So far 33 states have adopted the NAIC model and there is adoption activity in 7 additional states.

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- a. Do you believe that the SEC and state insurance commissions are unable to protect consumers under Reg BI and the NAIC model?
- b. Do you have proof that these enhanced standards are not working?

*The Department recognizes that the regulatory landscape has changed over the years. As a result, any ultimate proposal will consider the impact of changes to underlying standards of conduct since 2016, such as the Securities and Exchange Commission's Regulation Best Interest (Reg BI), the NAIC model rule, which has been adopted by many but not all states, and the prior administration's fiduciary advice exemption.*

3. The Davis-Bacon Act requires most contractors and subcontractors that perform work on federally funded or assisted construction contracts to pay government-determined prevailing wage and benefit rates. Unfortunately, regulations implementing these requirements are inherently flawed and frequently fail to produce accurate, prevailing or timely rates. The Department of Labor's Wage and Hour Division is close to finalizing a [March 18, 2022 proposed rule](#) updating Davis-Bacon regulations, but it fails to address these problems, instead undoing prior reforms, adding red tape and expanding prevailing wage requirements to new industries and workers.
  - a. As Secretary of Labor, will you abandon this unnecessarily burdensome proposed rule and instead pursue much-needed reforms to the Davis-Bacon wage survey process?
  - b. Shouldn't the Department of Labor be promoting policies to make infrastructure less expensive and provide opportunities for more businesses to contract with the government to improve our roads, bridges, affordable housing and utilities?

*The Department issued a comprehensive proposed rule on the Davis-Bacon and Related acts on March 11, 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the Davis-Bacon proposed rule closed on May 17, 2022, and we received more than 40,000 comments from the public, representing a wide variety of views. The Department has transmitted a draft final rule into interagency review and cannot express a position while the rule is under review.*

4. The Biden administration and DOL appear hyper-focused on promoting government-registered apprenticeship programs in the construction industry, instead of supporting an all-of-the-above workforce development strategy that can address the industry's skilled labor shortage. While registered apprenticeship programs are important, these programs only graduate approximately 40,000 to 50,000 construction apprentices yearly, while the latest projections show the industry will need to hire over half a million workers in 2023 alone.

This data demonstrates that the vast majority of upskilling and workforce development in the construction industry occurs outside of GRAPs (including both union and nonunion programs).

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- a. Based on the data, why is the administration failing to support and encourage all programs across the workforce development ecosystem, including industry programs and programs provided by educational institutions that are not affiliated with the government, as opposed to its current policies championing only government-registered apprenticeship programs?

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries – because Registered apprenticeship works. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention.*

*The well documented results of Registered apprenticeship are driven by the fact that Registered apprenticeship programs are always industry driven programs. Employers and industry partners develop and sponsor programs, invest in them and determine what the needed skills, competencies and credentials are needed. At the same time, voluntarily Registering an apprenticeship provides a seal of approval that ensures there is oversight, accountability, and quality controls that protect the welfare of apprenticeship and ensure Registered apprenticeship is an attractive option for workers looking to access a quality earn and learn pathway that offers portability and not just a job, but a career.*

*While Registered apprenticeships have a well-established history in the construction trades the Department has made strategic investments, including in states, to cut red tape to generate growth across a range of industry sectors, helping employers address critical talent needs in manufacturing, finance, information technology, healthcare and more. Since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers newly participating in the Registered Apprenticeship system across diverse areas from trucking to cybersecurity, to K-12 teachers.*

*While there is unique value to Registered apprenticeship, it is only one of a wide range of workforce training efforts the Department is leading and investing in. Other earn and learn programs, as well as workforce training programs in partnership with community colleges, community-based organizations, industry groups, state and local governments are actively and broadly supported by the Department through targeted grant investments as well as through programs supported at the state and local level through funding administered by the Workforce Innovation and Opportunity Act.*

*The Department is committed to ensuring federal workforce investments are meeting the needs of a number of critical industries and reaching diverse regions and populations through a range of workforce training strategies including paid internships, short-term training with stackable industry recognized credentials, upskilling and on-the-job training. Such grant investments include expanding community college-industry training partnerships through multiple rounds of the Strengthening Community Colleges grants; new dedicated training investments for critical occupations such as nursing, manufacturing and engineering; multiple rounds of Workforce Opportunities for Rural Communities grants implemented in partnership with Appalachian Regional Commission and the Delta Regional Authority; as well as annual grants targeted*

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*support youth employment and reentry workforce opportunities for justice-involved youth and returning citizens. The Department is committed to working with Congress to expand the scope of and strengthen the results of these critical investments in job training through needed targeted investments as well as programs supported at the state and local level through the Workforce Innovation and Opportunity Act.*

5. The Inflation Reduction Act of 2022 provides over \$270 billion in tax credits for the construction of clean energy projects. Unfortunately, this law also represents an unprecedented expansion of prevailing wage and government registered apprenticeship requirements into the private sector, as taxpayers must ensure contractors comply with prevailing wage rates and apprenticeship work hour requirements to receive the full tax credit.

Uncertainty has arisen among developers and contractors regarding how to ensure compliance with these unclear and complex new regulatory requirements. For example, prevailing wage determinations are not immediately available for many clean energy job classifications, and several state apprenticeship agencies are failing to approve apprenticeships for the solar installers and wind technicians needed to complete IRA projects.

- a. If confirmed, will you ensure that the DOL meets its statutory requirements to closely work with the Department of Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements under the IRA?
- b. Are you confident that the DOL has the capacity to help manage this massive expansion of these requirements without delaying critical energy infrastructure?

*Yes, I commit to meeting all statutory requirements to closely work with the Department of Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements. DOL and Treasury are in regular contact to ensure the law is successfully implemented.*

6. President Biden has publicly stated that he intends to be "the most pro-union President in history." The Biden administration has attempted to fulfill this mission with policies that benefit union workers to the exclusion of all other workers. For example, through regulations on federal procurement and language in federally-assisted grant programs, the administration has promoted project labor agreements, or PLAs, on construction projects.

PLAs limit the pool of qualified bidders to primarily unionized contractors and union labor, increasing costs and limiting job opportunities for non-union construction workers. Competition from small, minority- and women-owned federal contractors and their diverse workforces, are also disproportionately harmed by PLA mandates.

- a. If confirmed, will you oppose these exclusionary policies that harm the 88.3% of construction workers that choose not to join a union?

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*I support the collective bargaining rights of workers. I also recognize the right of workers to choose not to unionize. If confirmed as Secretary of Labor, I will faithfully implement the President's policies in accordance with the law.*

7. You appeared on a [May 12, 2022 video call](#) with SEIU supporting AB-257, a bill that takes away the independence of small business restaurant owners in California by creating a board of ten unaccountable, unelected government appointees to dictate wages and working conditions for small businesses. On the call, you stated in your official capacity that "[The Department of Labor stands with you. The Biden-Harris Administration stands with you.](#)"
  - a. Please elaborate on what you meant in making that statement?
  - b. If confirmed, will the Department of Labor support policies to take away the autonomy of independent entrepreneurs?

*The May 2022 video call from which those remarks were taken was related to the release of a report on wage theft in the fast food industry. I did not comment on the FAST Act, which was a bill written and passed by the California legislature and signed by the Governor after I had already left my position in California. I was not involved in the bill in any way. In context, the remarks you cite above were in reference to wage theft and the Biden Administration's actions to prevent wage theft. They were not an endorsement of any particular piece of state legislation.*

8. AB-5's independent contractor test is identical to the PRO Act, in that both create a so-called "A-B-C" test for determining whether an independent contractor should be considered an employee in law. The big difference is AB-5 features over 100 industry exemptions. Most architects, accountants, veterinarians, physicians, surgeons, dentists, insurance brokers, lawyers, engineers, direct sales salespeople and many more careers are exempt from AB-5's coverage, which is effectively proves that the ABC test does not work for dozens of professions. The PRO Act has no exemptions, and if enacted, would demote all of these professions from principals to employees.
  - a. Do you support the AB-5 test for independent contractor status with its numerous exemptions?
  - b. Do you support the PRO Act's independent contractor test that would effectively demote employees in dozens of professions from entrepreneur to employee?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*The PRO Act's employee definition—if passed by Congress—deals with the National Labor Relations Act, which is enforced by the National Labor Relations Board, not by the Department of Labor.*

9. In 2014, you publicly agreed with a former Department of Labor nominee who was rejected by the Senate, David Weil, and [stated](#) that regulators "can't fine people into

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- compliance" but instead should look at "entire industry structures" in a desire to dramatically overhaul workplace protections well beyond what Congress has enacted.
- a. Isn't "fining people into compliance," and enforcing the law precisely the job of a law enforcement principal like the Secretary of Labor?
  - b. Do you believe the Secretary has independent authority to change the law, and entire industry structures, effectively circumventing Congress?

*The Department of Labor utilizes outreach, compliance assistance, employer education, stakeholder engagement, as well as enforcement actions to administer the statutes under its authority. The Secretary of Labor does not have the authority to change laws, only Congress can do so.*

10. The position of Deputy Secretary of Labor is not specifically defined. Its role and duties are up to the Secretary to prescribe.
  - a. Please describe the role you played as Deputy Secretary?

*I served as the chief operating officer of the Department and worked hand in hand with Secretary Walsh to lead a resurgence in workforce training, avert a national rail shutdown, and other DOL accomplishments over the last two years.*

11. Specifically, what involvement did you have in the following matters:
  - a. The Wage and Hour Division's effort to rescind the Trump administration's rulemaking on independent contractors;
  - b. The Wage and Hour Division's rescission of the Trump administration's rulemaking on joint employment under the FLSA;
  - c. The Wage and Hour Division's rulemaking to revise the definition of an independent contractor under the FLSA;
  - d. The Wage and Hour Division's expected rulemaking to revise the regulation on when an employee is exempt from being paid overtime under the FLSA;
  - e. And OSHA's effort to finalize the COVID-19 ETS for healthcare facilities?

*Secretary Walsh and I established an agenda for our component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, OASP, and SOL to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

12. What policies and approaches used in California would bring to the federal level at DOL?

*If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

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13. Everyone associated with the Wage and Hour Division's rulemaking on independent contractors has already conceded that DOL cannot do an AB-5 type rulemaking. You are closely associated with the AB-5 approach in California, i.e., all but eliminating the ability of employers to use independent contractors.
- a. Do you think the approach embodied in AB-5 is a good approach?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*I agree with the analysis in the proposed rule on employee or independent contractor classification under the FLSA that DOL does not have the authority to implement an ABC test as found in the California state law AB 5. As explained in the proposed rule, the Department believes that it could only implement an ABC test if Congress passes legislation that alters the applicable analysis under the FLSA or if the Supreme Court revisits its precedent.*

14. California requires employers to pay overtime to employees after 8 hours of work per day rather than the federal standard of 40 hours per week.
- a. Which approach do you support?

*The California legislature, of which I have never been a part, enacts California state laws. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

15. California requires employees to perform exempt duties for a majority of their time, i.e. more than 50% of their time, to qualify as exempt.
- a. Do you support that requirement?

*The California legislature, of which I have never been a part, enacts California state laws. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

16. How have you been involved in the West Coast Ports negotiations? What kind of deal, do you believe, will resolve the dispute at the ports? Would you consider a Taft-Hartley injunction to keep the West Coast Ports open?

*I have been in touch with the parties since before the negotiations started in May 2022. I traveled to the West Coast ports with former Secretary Walsh on two occasions to meet with the parties. I will continue to engage with the parties to encourage them to work to reach an agreement. I am encouraged by their announcements this week that they have made significant progress. The issue of Taft Hartley injunctions is for the President, not the Secretary of Labor.*

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17. What specific steps will you recommend to reduce Unemployment Insurance fraud as Secretary of Labor?

*From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

- *Program integrity is of the utmost importance to the Biden-Harris Administration. To date, the Administration has directed more than \$465 million in grant funding toward fraud prevention, detection, and recovery within the UI program; these were among the Administration's earliest and highest priority investments. States have used these grants to set up new systems for data analytics and cross matching; to bolster resources for overpayment recovery and fraud investigations; and to set up systems for automatic identity verification.*
- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
- *The Department has prioritized **identity verification** to prevent identity theft from being used to fraudulently obtain UI benefits. The Department issued guidance to states on April 13, 2021, reiterating their responsibility under the Social Security Act to have a system to ensure that the name and Social Security Number used to establish eligibility for UI benefits belong to the individual filing a claim, and providing best practices on how to do so. The Department is also deploying funds from the ARPA to pilot the use of the General Service Administration's (GSA) Login.gov platform as an identity verification solution, starting in the state of Arkansas and expanding to additional states this year. We are also partnering with the US Postal Service to provide in-person verification options that can reach rural populations and others that can struggle with digital identity verification.*
- *The Department assembled teams of multi-disciplinary experts designed specifically to analyze state UI systems and process challenges. These Tiger Teams have delivered tailored technological, operational, and administrative recommendations to 30 states so far, including many recommendations that directly address integrity like identity proofing and authentication, claims risk scoring, and investigative claims management tools. On November 2, 2021, the Department announced \$200 million in funding available to states to improve UI systems to implement recommendations from the Tiger Teams.*
- *The Department has initiated technology pilot projects with select states to develop technology tools that all states can scale, leverage, and adopt as they pursue the modernization of their benefit and tax systems. Throughout the course of this fiscal year,*

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*Department funding and technical support to states will ensure that digital experiences can promote accurate and efficient payment of benefits, anticipate change, and effectively integrate anti-fraud technologies into state UI systems. For example, the Department will be promoting incremental approaches to technology modernization that will help states incorporate modular technologies that can quickly implement new program requirements and new technology mechanisms and workflows to screen out potentially fraudulent claims. The Department is consistently making these tools available to the states as they are developed.*

*The Department has emphasized the need for states to refer allegations of fraud, waste, abuse, mismanagement, and misconduct to the Department of Labor Office of Inspector General (DOL-OIG) and has taken decisive action to ensure that DOL-OIG's would have continuous access to state UI data to investigate potentially fraudulent claims so that criminal actions perpetrated against the unemployment system can be prosecuted.*

18. Do you believe that the Department of Labor has the authority to include an inflation adjustment in any pending overtime rule?

*To ensure overtime laws reflect the realities of today's workplace and that federal law provides meaningful protections for workers and their families, we are currently reviewing the regulations governing the exemption of executive, administrative, and professional employees from the Fair Labor Standards Act's overtime requirements. Recognizing that our economy is always changing, it is important that the adoption and implementation of our laws and regulations reflect our modern economy. This is an issue and regulation that, if confirmed, I plan to review carefully.*

19. The Office of Labor-Management Standards has recently started asking businesses to file persuader reports when they send their own company officers out to their own company facilities to discuss issues related to collective bargaining. To my knowledge the underlying statute (the Labor-Management Reporting and Disclosure Act) has never been interpreted in this way. This approach also seems contradictory to the OLMS interpretive manual.
- a. Can you explain why OLMS is targeting businesses in this way?

What policy guidance has the Department developed to justify this novel approach?

*Under longstanding policy, OLMS cannot confirm or deny the existence of an investigation. The LMRDA identifies those expenditures that labor organizations, employers and consultants must report. With respect to employer reporting obligations, expenditures that must be reported are described in Section 203(a) of the LMRDA and OLMS works to ensure that all expenditures identified by the Act are being fully reported.*

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20. The Department of Labor has an MOU with the National Labor Relations Board. What information have been sharing with the NLRB? What information have you received from the NLRB?

*As it pertains to OLMS, on December 29, 2020, the Department of Labor entered into a Memorandum of Understanding (MOU) with the National Labor Relations Board, Office of General Counsel (NLRB). The MOU provided that "DOL and the NLRB recognize the value to each agency of sharing investigative information as permitted by law. DOL and the NLRB further recognize that certain information maintained may benefit investigative activities of both DOL and the NLRB. The sharing of such information between DOL and the NLRB on a controlled basis facilitates efficient investigations. DOL and the NLRB will execute a formal information sharing agreement at a future date." On November 20, 2021, the parties executed the Memorandum of Agreement (MOA). Under the MOA, the Department and the General Counsel of the NLRB share information developed in their respective investigations that would be helpful to the other Agency's investigations.*

21. How would ride share or delivery services function if users of their platform were declared employees? How would they handle overtime, or minimum wage?

*The Department issued a comprehensive proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule and cannot express a position in the meantime.*

22. The Department of Labor has issued numerous press releases highlighting sums recovered in misclassification cases. This suggests that the Trump independent contractor rule, under which you are operating, is working well. Given the success touted by your own press releases, why are you seeking to change the rule?

*Misclassification of employees as independent contractors hurts workers, businesses that want to play by the rules, and our economy. The Department continues to ensure that employees receive the minimum wage and overtime pay protections of the FLSA. In October 2022, the Department issued a comprehensive proposed rule on employee or independent contractor classification under the Fair Labor Standards Act, including a full analysis of relevant case law and economic impacts of the proposed rule, which if finalized would align DOL's standard with the standard currently applied by the federal courts.*

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23. MSHA's upcoming proposed crystalline silica rule for metal/nonmetal and coal mines is widely anticipated to reduce the existing silica exposure limit by half to meet the OSHA standard. OSHA specifically allows for the use of administrative controls to meet the standard but in the past MSHA has limited the use of administrative controls to meet emission limits. How does MSHA intend to proceed with its rulemaking given the significant technical and economic compliance issues for meeting the anticipated new standard without use of administrative controls?

*The Department is very focused on protecting miners' health, including developing a proposed rule to better protect miners from exposure to respirable crystalline silica. In 2019, MSHA issued a Request for Information (RFI) that solicited information and data on feasible, best practices to protect miners' health from exposure to quartz in respirable dust and received comments from mining stakeholders. In developing a proposed rule, the Agency has reviewed comments from the 2019 RFI and considered relevant information from the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, public health experts, and stakeholders on controlling respirable dust at mines, exposure data, and scientific literature. Once MSHA publishes any proposed rule, mining stakeholders will have an opportunity to submit comments and provide testimony at a public hearing. MSHA will review and consider all comments and feedback as the Agency will continue to work to better protect the nation's miners from the potential health hazards associated with exposure to respirable crystalline silica.*

24. When you oversaw the California unemployment program, \$11 billion was paid to "bogus jobless claims" according to one media outlet, and up to \$20 billion in additional unemployment funds were improperly paid in less than a year. Shouldn't this level of failure disqualify you from leading the federal department responsible for overseeing state unemployment programs and administering federal unemployment programs?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

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*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*Fraud and abuse are never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me and also the same Thomson Reuters tools used by federal law enforcement. These efforts prevented over an estimated \$125 billion in attempted fraudulent payments. At the Department, I've continued to press state systems across the country to use data analytics and cross matching to prevent claims before they occurred.*

25. According to the California State Auditor, on March 20, 2020, you directed the Economic Development Department to suspend eligibility determinations for unemployment claims. Specifically, you directed the EDD to no longer determine if a claimant was able and available to work. However, DOL directed states to continue complying with federal law by making eligibility determinations related a claimant's ability and availability for work. If you flagrantly violated federal law and DOL guidance while overseeing the California unemployment program, how can we expect you to follow the law if confirmed as Secretary?

*Fraud and abuse are never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me and also the same Thomson Reuters tools used by federal law enforcement. These efforts prevented over an estimated \$125 billion in attempted fraudulent payments. At the Department, I've continued to press state systems across the country to use data analytics and cross matching to prevent claims before they occurred.*

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*claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was limited ability to work. This prevented further delays the payment of claims. The State Auditor did not attribute the increased fraud to these decisions. While battling fraud, California also succeeded at processing payments at rates that exceeded most states. California embraced an all hands-on-deck effort to rework customer service processes and technology to unlock bottlenecks to paying benefits out to families in need.*

26. According to the California State Auditor, you ordered the Economic Development Department to allow UI claimants to apply for continued unemployment benefits without certifying certain eligibility requirements as required by federal law. When the EDD director came back to you and pointed out this violation of federal law, you refused to rescind your directive. How would you characterize your ability to take feedback from those you lead and modify your decisions based on that feedback?

*To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was no ability to work. The pandemic was an unprecedented emergency, and I worked closely with EDD leadership and the U.S. Department of Labor to adjust our state's approach to addressing the crisis of unemployment unleashed by the pandemic. The State Auditor did not attribute the increased fraud to these decisions.*

Under your leadership, the California unemployment trust fund had to borrow over \$30 billion from the U.S. Treasury in an 18-month period just to pay state-funded unemployment benefits. At times, the monthly borrowing exceeded what the regular California unemployment program paid in benefits. Despite having one of the highest unemployment insurance taxes in the nation, and average weekly benefits below those of some other states, debt levels skyrocketed to quadruple the national average. Is this the kind of management you would bring to the U.S. Department of Labor?

*The COVID pandemic unleashed record numbers of unemployment claims against the state unemployment trust fund, and California was one of twenty-two states that borrowed from the federal government in 2020 under a standing authority granted to every state by Congress. The Biden Administration has put forth a set of UI reform principles in its FY 2024 budget and stands ready to work with Congress on improving the long-term sustainability of the program.*

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You were a strong supporter of AB 5, a measure in California that made it harder for people to work in the so-called “gig” economy for companies like Uber or make money from the comfort of their own home office. A national poll last year found that a majority of women prefer the flexibility provided by home-based employment opportunities. These opportunities are often frequently associated with career fields that were targeted by AB-5. If confirmed, would you continue to push policies restrict the types of flexible employment opportunities available to women?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

27. In 2005, you wrote that we live in “a society built on white privilege and systemic racial subordination.” As an academic, you’ve been at the forefront of what has been termed the critical race theory movement which, among other sources, draws from professor Ibram Kendi’s work where he says: “The only remedy to racist discrimination is antiracist discrimination. The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination.” How do you reconcile this theory, which advocates for discrimination, with Title VII of the Civil Rights Act of 1964?

*I have spent my career as a lawyer and public servant—not in academia. I reject any form of discrimination. I cannot address Ibram Kendi’s quote above as it is not mine. I view my job at DOL as creating opportunity for every American, making sure that no matter where you live, no matter what career path you choose, that you can have a roof over your head and food on the table. I believe that if you served our country, you should have a job available to you when you get home. And if someone’s in a small town, I want them to grow up and be able to live in that small town and not feel like they have to move somewhere else for opportunity.*

28. The environmental, social, and governance (ESG) movement has grown over the past several years and advocates for corporations and the government to manipulate market forces to promote political goals in the economy. Just last year, the top ten ESG funds all suffered double-digit losses, underperforming the S&P 500. You’ve been described as pro-worker. Are you prepared to ensure that the retirement funds of hundreds of millions of American workers—unionized and non-unionized—remain invested based on criteria that prioritize the highest rate of return so those American workers can retire comfortably?

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*Last November, the Employee Benefits Security Administration (EBSA) released a Final Rule under the Employee Retirement Income Security Act (ERISA) to empower plan fiduciaries to safeguard the savings of America's workers by making it clear that when appropriate, fiduciaries may consider environmental, social, and governance (ESG) factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations. The final rule also made clear, as discussed further below, that fiduciaries can never sacrifice financial returns in order to pursue an ESG goal.*

*The Final Rule addresses the Department's concern that two 2020 final rules issued by the prior Administration created uncertainty and had the undesirable effect of discouraging ERISA fiduciaries' consideration of ESG factors in investment decisions, even in cases when it is in the financial interest of plans and their participants and beneficiaries to take such considerations into account. This uncertainty may have deterred fiduciaries from taking steps that other marketplace investors take to maximize their risk-adjusted returns by enhancing investment value and performance or improving investment portfolio resilience against the potential financial risks and impacts associated with an ESG factor.*

*EBSA's Final Rule continues the Department's focus on the core statutory principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on risk-return factors and not subordinate the interests of participants and beneficiaries (such as by sacrificing investment returns or taking on additional investment risk) to objectives unrelated to the provision of benefits under the plan. See 29 CFR 2550.404a-1(a), (b), (c) and (d). As the Final Rule itself states: "A fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan."*

29. Workforce development is a huge priority for me and for the state of Alabama, especially in the wake of COVID. Chairman Sanders and I have discussed our shared interest in apprenticeship programs. Please explain your thoughts on registered apprenticeship programs versus the Trump administration-style Industry Recognized Apprenticeship Programs (IRAPs)?

*This Department is pleased to see the bipartisan support for Registered apprenticeship and is committed to expanding this industry-driven, proven, but flexible model that works across industries and employers. For years now, the Department has made investments and built strategic partnerships with states and the private sector to make it easier than ever for employers to start a Registered Apprenticeship and since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers participating in the Registered Apprenticeship system and U.S. DOL has provided grants to partners in rural, tribal and other communities.*

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*The Department is committed to working with Congress on the effort to continue to grow, diversify, and innovate in the Registered Apprenticeship system as the RA system offers high quality training and worker protection standards, including progressively increasing wages, a nationally portable industry-recognized credential, and safety and equal employment opportunity safeguards.*

*The rescission of the 2020 IRAP rule enabled the Department to refocus its efforts and resources on expanding, modernizing, strengthening, and diversifying the current Registered Apprenticeship system. The Department determined it would yield better results by investing in and modernizing the Registered Apprenticeship system than could be achieved through a duplicative new program in IRAPs. As part of its final rule, the Department will work with previously recognized Standards Recognition Entities and IRAPs, some of who were already simultaneously engaged in the RA system. Specifically, the Department will help SREs explore opportunities to become program sponsors or intermediaries in the RA system, and will provide IRAP apprentices with resources to connect them with Registered Apprenticeship as well as other training opportunities.*

30. Congress had to intervene last year to avoid a massive-scale rail labor strike. Secretary Walsh was intimately involved in those negotiations, and you have said you were involved as well, but ultimately Congress did have to intervene. What will you do to ensure we don't wind up in a similar situation in the future?

*I will always act as a neutral arbiter to help the parties to collective bargaining in reaching an agreement. Negotiations in the railroad and airline industries are within the purview of the National Mediation Board. I will offer to assist in encouraging the parties to work to reach an agreement.*

31. The EBSA at DOL has issued guidance – via press release – prohibiting certain types of retirement investments during the brokerage window. I have introduced legislation that would restore the integrity of that process and allow investors to invest their money how they please. Please speak to why that decision was made.

*The Department's Compliance Assistance Release (CAR) 2022-01 was prompted by reports of firms marketing investments in cryptocurrencies to 401(k) plans as potential investment options for plan participants. Fiduciaries of 401(k) plans risk the retirement savings of plan participants if they make investment decisions without fully understanding the potential risks, as well as the potential rewards, associated with an investment or an investment course of action. The Department views the CAR as a valuable compliance assistance tool for fiduciaries that are considering whether or not to invest in cryptocurrency or other digital assets.*

*The CAR does not prohibit any type of investment. Rather, the CAR notes that cryptocurrency investments present significant risks of fraud, theft, and loss. The release cautioned fiduciaries*

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*about the potentially speculative and volatile nature of these investments, the unique challenges these investments pose for inexperienced investors, custodial and recordkeeping issues, valuation concerns, and regulatory risks.*

32. You have a long history of activism on behalf of organized labor, but very few examples of impartiality. For instance, you wrote in 2005 that businesses “perpetuate economic injustice” and “use, abuse, and exploit poor people.” I have some legitimate concerns that you won’t be fair and neutral if confirmed. I’m not confident that your ability to act as a neutral and fair secretary won’t be compromised by personal view of the business community.
- a. Please explain why you used those terms.
  - b. What would you say to those who believe you are unable to be impartial toward the business community?

*I believe in working with people representing diverse viewpoints to accomplish the mission of the Department of Labor. Throughout my career in government, I have always listened to both employers and employees, and conservatives and liberals. There are a number of business groups that support my nomination and businesses that I have worked with in the past would tell you that I am a fair broker.*

*In a recent example, I have supported the International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA) as they work to negotiate a collective bargaining agreement that covers more than 22,000 longshore workers at 29 U.S. West Coast ports. The parties recently announced significant progress in these negotiations. Executive Director of the Port of Los Angeles sent a letter to this committee supporting my nomination stating, “Acting Secretary Su – as California Labor Secretary and US Deputy Secretary of Labor – has successfully navigated this environment over the years by bringing together (with POLA serving as a co-host) port authorities, labor unions, the trucking community, and private sector employers to discuss how the various stakeholders can work together on issues such as worker centered training, health and safety of essential workers that continued to work during the Covid-19 pandemic, or how to introduce cleaner equipment and vehicles to this industry while supporting the workforce most directly impacted by the new technology. Her collaboration and knowledge of this goods movement industry makes her confirmation critical, now more than ever, as global and national supply chains continue to re-balance after the Covid-19 pandemic.”*

33. Your nomination is opposed by at least 32 business group coalitions. Their primary concern is that your confirmation would be devastating to a wide number of industries and businesses. This much opposition concerns me. You have tried to reassure critics that you would wear a “different hat” and be less of an activist. But I find that hard to believe, with all the opposition that has come out against you. Aside from telling us you’ll act differently if confirmed, what can you say to alleviate concerns raised by all this opposition?

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*I believe in working with people in engaging with all stakeholders to accomplish the mission of the Department of Labor. Throughout my career in government, I have always listened to both employers and employees, and conservatives and liberals. There are a number of business groups that support my nomination and businesses that I have worked with in the past would tell you that I am a fair broker.*

34. As I pointed out during your hearing, you have consistently worked to oppose and block efforts to stop illegal immigration. You reportedly sent a memo to staff during your time as California Labor Commissioner instructing them to "turn away any Immigration and Customs Enforcement agents who show up at labor offices without a federal warrant." I'm very concerned about the fact that our southern border is wide open, and the negative impacts that this action taken by the Biden administration has had on our communities.
- a. Please provide a copy of this memo to the committee.
  - b. Why did you feel it was your job to override the authority of federal ICE agents looking for information about people in this country illegally?
  - c. As someone looking to head a federal level agency, how would you respond to a state level official denying your employees access to information relevant to their jobs?

*I do not have access to this reported memo and do not recall its precise contents or the context in which it may have been released. It is worth noting, however, that California enacted SB 54, the California Values Act, in October 2017. That law placed limits on the types of interactions California law enforcement agencies could have with federal immigration officials and the type of access federal immigration officials could have at California Division of Labor Standards Enforcement facilities, California Division of Workers Compensation, and other state and public facilities in California. The law and the limitations it imposed were found to be constitutional by the Ninth Circuit Court of Appeals in 2019.*

35. You have made it clear throughout your career that you believe in an antiquated style of labor and employment, where workers are only treated fairly when they are classified as full-time employees. You believe that the federal government should force businesses to make as many employees full-time as possible so they can have more benefits – and also join unions. These beliefs completely ignore the reality of today's labor market. Coming out of COVID, businesses across the economy are struggling more than ever before to find workers. They've raised wages, added benefits, and tried to appeal to as many workers as possible. And they're barely getting by.
- a. Why do you think now is the time to impose all these new DOL regulations when the labor market is as it is?
  - b. Why are labor unions and more federal rules necessary now, of all times?

*Under my leadership together with Secretary Walsh, the DOL has undertaken significant work to expand workforce training opportunities. Since January 2021 the beginning of the Biden Harris Administration, the economy has added 12.6 million jobs. My mission is to grow the economy from the bottom up and the middle out by protecting workers and leveling the playing field for the multitude of law-abiding employers.*

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36. In the past two years, more than 250,000 unaccompanied minors have entered the country, and welfare caseworkers say that about two-thirds (166,000) of them now work full-time. How do you reconcile your fair labor beliefs with fact that this administration has destroyed our southern border?

*The Department takes the egregious violation of child labor laws very seriously. The Department investigates every child labor complaint it receives and acts to hold employers accountable. On Feb. 17, 2023, the Department of Labor announced the resolution of one of the largest child labor cases in its history against Packers Sanitation Services Inc. LTD. The department currently has hundreds of child labor investigations underway and continues to field complaints and initiate investigations to protect children. The DOL is also undertaking a National Strategic Enforcement Initiative on Child Labor.*

37. The Employee Benefits Security Administration published Compliance Assistance Release No. 2022-01 on March 10, 2022, outlining the Department of Labor’s view on 401(k) plan investments in cryptocurrencies. The release correctly asserts that fiduciaries are required by law to act in the financial best interests of the individuals whose assets they are investing. It goes on to express that the Department has “serious concerns about the prudence of a fiduciary’s decision to expose 401(k) plan’s participants to direct investments in cryptocurrencies, or other products whose value is tied to cryptocurrencies.”
- a. Has DOL prohibited self-directed 401(k) brokerage accounts from investing in cryptocurrencies?
  - b. Would you agree that the same arguments made in the CAR against the suitability of cryptocurrencies as a 401(k) investment would also apply to investments in Chinese securities?

*EBSA is not taking a novel position by asserting that ERISA imposes obligations on fiduciaries of plans with self-directed brokerage accounts or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan. The Department has long indicated that fiduciaries have responsibilities with respect to brokerage windows. A 2012 Field Assistance Bulletin (FAB) specifically noted that “fiduciaries of such plans with platforms or brokerage windows, self-directed brokerage accounts, or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan are still bound by ERISA section 404(a)’s statutory duties of prudence and loyalty to participants and beneficiaries who use the platform or the brokerage window ...including taking into account the nature and quality of services provided in connection with the platform or the brokerage window ...” (FAB 2012-02R, Question 39, at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2012-02r>).*

*In light of ERISA’s stringent and longstanding obligations of prudence and loyalty, it is reasonable to expect plan fiduciaries to be able to respond to questions about their decisions to*

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*make cryptocurrency investments available to plan participants and beneficiaries, whether as designated investment alternatives or through a self-directed brokerage account or similar arrangement. If such investments are made available, plan fiduciaries should be prepared to discuss their decision-making process and explain whether the investments are subject to any limitations or protections set forth in the plan.*

*The CAR is limited by its terms to cryptocurrency investments and focuses on the need for ERISA fiduciaries to exercise extreme care at this stage of cryptocurrency's development. The CAR does not, and should not be read to, address other types or classes of investments. That said, the Department is aware of legislative proposals aimed at limiting or prohibiting investment in, or that finance, certain types of companies or businesses of the People's Republic of China. Executive Order 14032 also generally prohibits U.S. persons from purchasing or selling securities of issuers identified as Communist Chinese Military-Industrial Companies. It does not appear the legislative proposals or the Executive Order include exemptions for ERISA fiduciaries responsible for 401(k) plans with brokerage windows.*

38. Is it possible that retirement savers who invest using accounts overseen by the Employee Benefits Security Administration are unknowingly investing in Chinese companies that utilize forced labor?

*A goal of the Department's Final Rules on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights is to address the prior Administration's rules, which discouraged fiduciaries from considering these factors, even when they viewed them as financially material. Under our rule, plan fiduciaries are able to consider relevant factors, such as the financial impact of a company's use of forced labor in products that could then not legally be imported into the United States, in evaluating the appropriateness of the investment.*

39. How do you define fiduciary duty?

*Under ERISA's statutory text, a fiduciary's duties are explicitly defined. A fiduciary is obligated to discharge their duties with respect to a plan solely in the interest of the participants and beneficiaries and:*

- For the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan;*
- with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;*
- by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and*
- in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of ERISA.*

*These duties, including the exclusive purpose standard (or duty of loyalty) are fundamental fiduciary obligations and a consistent focus of EBSA's regulations and enforcement efforts. For*

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*example, in its recent Final Rules on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights, the regulation stressed the central importance of the duty of loyalty by providing, in the regulation's express text, that: "A fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan."*

40. Would you agree that a fiduciary managing funds on behalf of an American retirement saver must invest in a way that maximizes economic return on a risk-adjusted basis?

*ERISA protects retirement plans' assets by requiring that those persons or entities who exercise discretionary control or authority over plan management or plan assets, anyone who exercises authority over plan assets, anyone with discretionary authority or responsibility for the administration of a plan, or anyone who provides investment advice to a plan for compensation or has any authority or responsibility to do so are subject to fiduciary responsibilities. The primary responsibility of fiduciaries is to administer the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits and paying plan expenses. Fiduciaries must act prudently and must diversify the plan's investments in order to minimize the risk of large losses. In addition, they must follow the terms of plan documents to the extent that the plan terms are consistent with ERISA. They also must avoid conflicts of interest. In other words, they may not engage in transactions on behalf of the plan that benefit parties related to the plan, such as other fiduciaries, services providers or the plan sponsor. As the Final Rules on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights states: "A fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan."*

41. Did representatives of BlackRock meet with DOL officials to discuss the ESG rulemaking during the drafting process?

*DOL officials received input from and met with a wide range of stakeholders and interested parties, including BlackRock, at various stages of the process.*

**Senator Susan Collins' QFRs (R-ME)**

1. In a December 2022 report, the Government Accountability Office concluded that the Department of Labor has not yet developed an antifraud strategy for unemployment insurance (UI) or addressed the most significant fraud risks in the program. This is disappointing and unacceptable given the substantial amount of UI fraud that occurred during the pandemic. This is also concerning since there was widespread UI fraud when you served as Secretary of California's Labor and Workforce Development Agency.

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- a. Is the Department of Labor developing an anti-fraud strategy for UI? If so, please provide the Committee with documents and details concerning this strategy.
- b. If not, what is preventing the Department from developing this antifraud strategy?

*From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

- *Program integrity is of the utmost importance to the Biden-Harris Administration. To date, the Administration has directed more than \$465 million in grant funding toward fraud prevention, detection, and recovery within the UI program; these were among the Administration's earliest and highest priority investments. States have used these grants to set up new systems for data analytics and cross matching; to bolster resources for overpayment recovery and fraud investigations; and to set up systems for automatic identity verification.*
- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
- *The Department has prioritized **identity verification** to prevent identity theft from being used to fraudulently obtain UI benefits. The Department issued guidance to states on April 13, 2021, reiterating their responsibility under the Social Security Act to have a system to ensure that the name and Social Security Number used to establish eligibility for UI benefits belong to the individual filing a claim, and providing best practices on how to do so. The Department is also deploying funds from the ARPA to pilot the use of the General Service Administration's (GSA) Login.gov platform as an identity verification solution, starting in the state of Arkansas and expanding to additional states this year. We are also partnering with the US Postal Service to provide in-person verification options that can reach rural populations and others that can struggle with digital identity verification.*
- *The Department assembled teams of multi-disciplinary experts designed specifically to analyze state UI systems and process challenges. These **Tiger Teams** have delivered tailored technological, operational, and administrative recommendations to 30 states so far, including many recommendations that directly address integrity like identity proofing and authentication, claims risk scoring, and investigative claims management tools. On November 2, 2021, the Department announced \$200 million in funding available to states to improve UI systems to implement recommendations from the Tiger Teams.*

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- *The Department has initiated **technology pilot projects** with select states to develop technology tools that all states can scale, leverage, and adopt as they pursue the modernization of their benefit and tax systems. Throughout the course of this fiscal year, Department funding and technical support to states will ensure that digital experiences can promote accurate and efficient payment of benefits, anticipate change, and effectively integrate anti-fraud technologies into state UI systems. For example, the Department will be promoting incremental approaches to technology modernization that will help states incorporate modular technologies that can quickly implement new program requirements or new technology mechanisms and workflows to screen out potentially fraudulent claims. The Department is consistently making these tools available to the states as they are developed.*

*The Department has emphasized the need for states to refer allegations of fraud, waste, abuse, mismanagement, and misconduct to the Department of Labor Office of Inspector General (DOL-OIG) and has facilitated DOL-OIG's access to state UI data on potentially fraudulent claims so that criminal actions perpetrated against the unemployment system can be prosecuted.*

2. Following your 2021 confirmation hearing, I requested additional information about your role in overseeing the California Employment Development Department (EDD), which issued up to \$32 billion in fraudulent UI payments during the pandemic. Rather than taking responsibility for EDD's failures, you asserted that as Secretary of the California Labor and Workforce Development Agency, you were not personally involved in the EDD leadership decision described in the California State Auditor report. If you are confirmed as Secretary of Labor, you will oversee thousands of employees, across multiple offices and agencies, and you will not be part of every decision-making process at these offices and agencies.
  - a. Do you believe that the Secretary of Labor is ultimately responsible for decisions made by Department employees?
  - b. Should you be held responsible, in part, for the \$32 billion in fraudulent UI payments made by California during the pandemic? If not, why not?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on*

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*self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*This includes the actions of EDD at this time. To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was no ability to work. The State Auditor did not attribute the increased fraud to these decisions.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me. These efforts prevented over an estimated \$125 billion in fraudulent payments.*

3. As Secretary of the California Labor and Workforce Development Agency, you oversaw implementation of Assembly Bill (AB) 5, which adopted strict requirements for establishing a worker's status as an independent contractor. In an October 2019 interview, you said AB 5 could "set a model for the country." In November 2020, less than a year after the law took effect, nearly 60 percent of California voters supported a ballot measure to exempt app-based rideshare and delivery drivers from AB 5, adding these drivers to the list of more than 100 professions already exempt from the law. During a time of supply chain and worker shortages, AB 5 has affected the ability of thousands of self-employed truckers to operate in California and increased burdens on small businesses trying to navigate the law's requirements.
  - a. In light of these developments, do you still believe that AB 5 is a model for the country?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law -- not federal*

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*law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

4. The H-2B program is vitally important to Maine’s tourism and hospitality industries. If confirmed as Secretary of Labor, what efforts do you envision taking to ensure that the Department’s role in processing H-2B visa applications is fulfilled in an efficient and effective manner so that employers can get the help they need when they need it?

*Due to intense demand and a lack of additional DOL resources to process certifications, there has been a significant backlog of applications for H-2B labor certification. If confirmed, I commit to working with Congress to address the problem of the lack of sufficient resources to respond to surging demand in the H-2B program. DHS has adopted a summer set-aside to help address challenges later season employers face in key sectors, but a long-term, sustainable solution will require congressional action.*

**Senator Mike Braun’s QFRs (R-IN)**

1. The Biden Administration and the Department of Labor appeared to be hyper-focused on promoting government-registered apprenticeship programs in the construction industry, instead of supporting an all-of-the-above workforce development strategy that can address the industry’s skilled labor shortage. While registered apprenticeship programs are important, these programs only graduate approximately 40,000 to 50,000 construction apprentices on an annual basis, while the latest projections show the industry will need to hire over half a million workers in 2023 alone. These data demonstrate that the vast majority of upskilling and workforce development in the construction industry occurs outside of government-registered apprenticeship programs (including both union and nonunion programs). Based on this data, why is the Biden Labor Department failing to support and encourage all programs across the workforce development ecosystem, including industry programs and programs provided by educational institutions that are not affiliated with the government, as opposed to its current policies that champion only government-registered apprenticeship programs?

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries – because Registered apprenticeship works. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention. While Registered apprenticeships have a well-established history in the construction trades the Department has made strategic investments and cut red tape to generate growth across a range of industry sectors, helping employers address critical talent needs in manufacturing, finance, information technology, healthcare and more. Since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers*

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*newly participating in the Registered Apprenticeship system across diverse areas from trucking to cybersecurity, to K-12 teachers.*

*While there is unique value to Registered apprenticeship, it is only one of a wide range of workforce training efforts the Department is leading and investing in. Other earn and learn programs, as well as workforce training programs in partnership with community colleges, community-based organizations, industry groups, state and local governments are actively and broadly supported by the Department through targeted grant investments as well as through programs supported at the state and local level through funding administered by the Workforce Innovation and Opportunity Act.*

*The Department is committed to ensuring federal workforce investments are meeting the needs of a number of critical industries and reaching diverse regions and populations through a range of workforce training strategies including paid internships, short-term training with stackable industry recognized credentials, upskilling and on-the-job training. Such grant investments include expanding community college-industry training partnerships through multiple rounds of the Strengthening Community Colleges grants; new dedicated training investments for critical occupations such as nursing, manufacturing and engineering; multiple rounds of Workforce Opportunities for Rural Communities grants implemented in partnership with Appalachian Regional Commission and the Delta Regional Authority; as well as annual grants targeted support youth employment and reentry workforce opportunities for justice-involved youth and returning citizens. The Department is committed to working with Congress to expand the scope of and strengthen the results of these critical investments in job training through needed targeted investments as well as programs supported at the state and local level through the Workforce Innovation and Opportunity Act.*

2. Regarding your time at the California Labor and Workforce Development Agency (LWDA), you did a number of things that raise serious questions about your competence to run a major federal government agency. During the Covid crisis, Californians struggled to get benefits on time. Meanwhile, your department handed out potentially \$30-40 billion in fraudulent claims, largely due to your failure to follow earlier warnings about your department's technology problems, as well as your failure to understand how your "stop payment" actions worked. A California Auditor report was titled "EDD's Poor Planning and Ineffective Management Left it Unprepared to Assist Californians Unemployed by Covid 19 Shutdowns." California Democratic Assemblywoman Cottie Petrie-Norris said that, while you have done a good job on some initiatives, you have "not done a good job at running the Employment Development Department and, as a result, has wasted billions of dollars and, more importantly, caused heartache for millions of Californians." You were a vocal supporter of AB 5, which was quickly dismantled by the legislature and then a voter referendum. It was deeply unpopular with voters and even with the freelancers you claimed it would help. While you were urging new regulations restricting freelance work and running the LWDA, workers were fleeing California. In fact, the population of California declined during your tenure. And the states that California workers fled to were, perhaps not coincidentally, very freelancer-friendly states. Given the way you have managed and

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mismanaged the LWDA, why should you fail upwards to run an even larger federal agency?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*This includes my decisions regarding the actions of EDD. To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was limited ability to work. The State Auditor did not attribute the increased fraud to these decisions.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me. These efforts prevented over an estimated \$125 billion in fraudulent payments.*

3. According to the U.S. Bureau of Labor Statistics, there were 23 major work stoppages in 2022, up from 16 in 2021. Several major industries are facing the possibility of strike activity this year, with at least 150 large union contracts expiring in 2023. These lapsing

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agreements represent roughly 1.5 million workers. Former Secretary Walsh had a record of experience negotiating with management or labor during high-profile strikes. Can you point to examples in your experience that indicate you would be capable of leading such negotiations if a major work stoppage were to occur during your tenure as secretary?

*In a recent example, I have supported the International Longshore and Warehouse Union (ILWU) and the Pacific Maritime Association (PMA) as they work to negotiate a collective bargaining agreement that covers more than 22,000 longshore workers at 29 U.S. West Coast ports. The parties recently announced significant progress in these negotiations. The Executive Director of the Port of Los Angeles sent a letter to this committee supporting my nomination stating, "Acting Secretary Su – as California Labor Secretary and US Deputy Secretary of Labor – has successfully navigated this environment over the years by bringing together (with POLA serving as a co-host) port authorities, labor unions, the trucking community, and private sector employers to discuss how the various stakeholders can work together on issues such as worker centered training, health and safety of essential workers that continued to work during the Covid-19 pandemic, or how to introduce cleaner equipment and vehicles to this industry while supporting the workforce most directly impacted by the new technology. Her collaboration and knowledge of this goods movement industry makes her confirmation critical, now more than ever, as global and national supply chains continue to re-balance after the Covid-19 pandemic."*

4. You have cited your experience working alongside Secretary Walsh as reason enough that we should trust that you are capable in managing large-scale labor negotiations as he did during his tenure as Labor Secretary. Last year, in an ongoing railroad labor dispute, it took an act of Congress to require labor unions to agree to the terms proposed by the Presidential Emergency Board, to prevent a strike. Would you consider that a success in negotiations?

*Eight of the twelve rail unions reached agreements with the freight railroads that were ratified by their members. It is not unusual for Congress to take action in freight rail negotiations. I consider the negotiations a success in that workers received significant pay raises, preserved their health benefits, and won other improvements. Moreover, the unions have continued to negotiate with the carriers over the sick leave issue, and a substantial number of freight rail workers have won paid sick days through the collective bargaining process.*

5. The rail industry's current contract expires in 2024. In the event of a rail or airline strike or lockout, Congress could ultimately pass legislation to end the labor unrest again. Is that the outcome you would seek or is it something you would want to avoid? How would you go about trying to avoid this from happening again, especially happening at a time when we are likely to be in an economic recession?

*Negotiations in the railroad and airline industries are primarily within the purview of the National Mediation Board. It is too early to speculate on the process for the next round of negotiations.*

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6. The Department of Labor is currently issuing new OSHA standards regarding the airborne transmission of illnesses. As Secretary of the California Labor and Workforce Development Agency (LWDA), you oversaw the implementation of California's emergency COVID-19 workplace safety rule. Without even so much as a notice-and-comment process, you chose to hold employers liable for something that neither caused nor created. Your rule was used as a model for the Biden Administration's OSHA COVID-19 rule, which was eventually struck down by the Supreme Court. As you now seek to lead the Department, of which OSHA is a part, how do you see OSHA's role in regulating airborne contagions?

*OSHA directs its enforcement and regulatory actions to ensure that employees are protected against hazards in the workplace, including the hazard of COVID-19. OSHA will continue to carry out this mission and will use all tools provided under the Occupational Safety and Health Act in doing so.*

*The constantly evolving nature of COVID-19 has created many challenges. Throughout the last three years, the Occupational Safety and Health Administration (OSHA) has worked closely with its federal partners, including the Food and Drug Administration, National Institute for Occupational Safety and Health, and the Centers for Disease Control and Prevention (CDC), to implement a government-wide strategy to protect the health of working people. OSHA's guidance and standards have, where appropriate, maintained consistency with CDC recommendations.*

7. Did the actions of the LWDA with respect to implementing the emergency COVID-19 workplace safety rule violate the Administrative Procedure Act?

*The California ETS was subject to the California Administrative Code, not the Administrative Procedure Act. Unlike the federal rule, the California ETS did not address vaccination-or-testing requirements. Multiple courts upheld Cal/OSHA's authority to promulgate and enforce the ETS.*

8. What determinations did the LWDA make to find that there was an emergency so immediate and serious that it made allowing notice and public comment inconsistent with the public interest?

*Cal/OSHA and the California Occupational Safety and Health Standards Board engaged repeatedly with stakeholders through the ETS process above and beyond the requirements of the California Administrative Code and took stakeholder comments into account during the process to make it more workable for employers and evolve as our understanding of COVID-19 grew.*

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9. Did the actions of the LWDA with respect to implementing the emergency COVID-19 workplace safety rule violate California's Occupational Safety and Health Act, by overstepping its jurisdictional limits?

*Courts reviewing the rule did not find that Cal/OSHA or the California Occupational Safety and Health Review Commission, the independent body that promulgated the rule, exceeded their jurisdiction.*

10. Did the actions of the LWDA with respect to implementing the emergency COVID-19 workplace safety rule violate the Due Process Clause of the Fourteenth Amendment by denying employers any meaningful opportunity to respond to the proposed regulations and make the case as to why they were so deeply flawed?

*Courts reviewing the rule did not find that Cal/OSHA or the California Occupational Safety and Health Review Commission, the independent body that promulgated the rule, exceeded their statutory or Constitutional authority. Cal/OSHA and the Standards Board worked closely with employers to consider their input in refining the rule multiple times, going beyond the minimum legal requirements for emergency rulemaking to ensure employers and other stakeholders were heard.*

11. Did the actions of the LWDA with respect to implementing the emergency COVID-19 workplace safety rule violate the California Constitution, by requiring employers to exclude employees from the workplace for potentially unlimited periods of time and to pay potentially ruinous costs associated with these exclusions despite employers' effective compliance with measures being taken to serve the public health interest?

*Courts reviewing the rule did not find that Cal/OSHA or the California Occupational Safety and Health Review Commission, the independent body that promulgated the rule, exceeded their statutory or Constitutional authority under either California or federal law. The rule excluded sick and COVID-19-exposed workers from the workplace consistent with public health orders in place at the time.*

12. While you served as Deputy Secretary of Labor, the Department of Labor issued a rule that greenlit environmental, social, governance (ESG) investing in federal pension plans. I led a resolution under the Congressional Review Act (CRA) that passed both houses of Congress on a bipartisan basis to nullify this rule. Unfortunately, President Biden then vetoed this CRA. At a time when Americans' 401(k)s have already taken such a hit due to market downturns and record high inflation, do you think it is good idea to encourage fiduciaries to make decisions even if those decisions ultimately yield a lower rate of return?

*The proposal, Final Rules on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights, addresses the Department's concern that the 2020 Rules created uncertainty and had the undesirable effect of discouraging ERISA fiduciaries' consideration of ESG factors in investment decisions, even in cases when it is in the financial interest of plans to*

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*take such considerations into account. This uncertainty may have deterred fiduciaries from taking steps that other marketplace investors take in enhancing investment value and performance or improving investment portfolio resilience against the potential financial risks and impacts associated with climate change and other ESG factors.*

*The Final Rule continues the Department's focus on the core statutory principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on risk-return factors and not subordinate the interests of participants and beneficiaries (such as by sacrificing investment returns or taking on additional investment risk) to objectives unrelated to the provision of benefits under the plan. See 29 CFR 2550.404a-1(a), (b), (c) and (d).*

13. This ESG rule was a change in policy from that of the previous four administrations, two of them Democratic. Why did the Biden Administration feel it was so urgent to promulgate a rule that would put so many Americans' retirement savings at risk?

*In November 2022, DOL published a rule to empower plan fiduciaries to safeguard the savings of America's workers by making it clear that fiduciaries may consider environmental, social, and governance (ESG) factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations. The proposal addresses the Department's concern that the 2020 Rules created uncertainty and had the undesirable effect of discouraging ERISA fiduciaries' consideration of climate change and other ESG factors in investment decisions, even in cases when it is in the financial interest of plans to take such considerations into account. This uncertainty may have deterred fiduciaries from taking steps that other marketplace investors take in enhancing investment value and performance or improving investment portfolio resilience against the potential financial risks and impacts associated with ESG factors. Consistent with the approach across multiple Administrations, the final rule continues the Department's focus on the core statutory principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on risk-return factors and not subordinate the interests of participants and beneficiaries (such as by sacrificing investment returns or taking on additional investment risk) to objectives unrelated to the provision of benefits under the plan.*

14. Were you involved in this rulemaking with respect to the ESG rule?

*Secretary Walsh and I established an agenda for our component agencies to propose rules that implement the Department's mission and the President's agenda. We work closely with our agency heads, the Office of the Assistant Secretary for Policy, and the Solicitor's Office to ensure that they are taking into account the breadth of comments that we receive from stakeholders and ensuring that any final rule considers those comments while advancing our mission.*

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15. Are you aware that multiple studies show that ESG funds tend to underperform traditional investments?

*DOL’s rule does not mandate any consideration of Environmental Social Governance (ESG) factors, but simply clarified that plan fiduciaries can consider ESG factors when they are relevant to investment decisions for workplace retirement plans. The only thing the DOL rule mandates is that plan fiduciaries have to put the financial interests of participants and beneficiaries first. The previous Administration wrote a rule that was perceived to prevent consideration of ESG factors. If retirement plan fiduciaries are afraid to take certain investing factors into account –when it would benefit you financially – that’s a problem for workers and their families.*

*The broad body of research evaluating ESG investing, on balance, shows that ESG investing has financial benefits.*

*In a meta-analysis of over 1,000 studies published between 2015 and 2020, Whelan et al. (2021) reports that of the studies concerning corporate performance, 58 percent find a positive relationship, while 13 percent find a neutral relationship, 21 percent find a mixed relationship, and 8 percent find a negative relationship. Of the studies concerning investment performance, 33 percent find a positive relationship, 26 percent find a neutral impact, 28 percent find mixed results, and 14 percent find negative results.<sup>11</sup> They found similar results when focusing only on studies about climate change and financial performance.*

*Clark, Feiner, and Vieha (2014) conducted a meta-study analyzing more than 200 studies — 45 of which looked at operational performance — and showed that 88 percent of these studies found that ESG practices lead to better operational performance. Additionally, 41 of the operational performance studies reviewed the relationship between sustainability and financial market performance, and 80 percent showed that stock price performance of companies is positively influenced by good sustainability practices.<sup>12</sup>*

*Friede et al. (2015) found in their meta-study that only 10 percent of studies found a negative ESG performance relationship, while 47.9 percent of vote-count studies and 62.6 percent of meta-studies show positive findings.*

16. How would you respond to concerns from several members of Congress and others that believe the ESG rule risks weakening the United States’ energy, national, and economic security?

*The ESG Rule is not a mandate—it does not require any fiduciary to make investment decisions based solely on ESG factors and would not permit them to sacrifice the financial interests of plan participants to promote other goals. It simply makes sure that retirement plan fiduciaries must*

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*engage in a risk and return analysis of their investment decisions and recognizes that ESG factors can be relevant to that analysis.*

17. At a very basic level, do you agree that the ESG rule, as well-intentioned as it may be, presents a risk to investors in not receiving the greatest rate of return?

*No. The Rule simply makes sure that retirement plan fiduciaries must engage in a risk and return analysis of their investment decisions and recognizes that these factors can be relevant to that analysis. As the Final Rule itself expressly states: "A fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan."*

18. In your opinion, is the risk that ESG rule poses to investors worth it?

*The Rule simply makes sure that retirement plan fiduciaries must engage in a risk and return analysis of their investment decisions and recognizes that these factors can be relevant to that analysis.*

19. You appear to have a low view of U.S. immigration laws. While a Labor Commissioner in California, you instructed your staff to turn away Immigration and Customs Enforcement officers. You have said that immigration laws and free trade are a "double standard." Do you believe that the U.S. should do away with its current immigration laws and/or free trade?

*I share President Biden's commitment to pursuing modernization of our immigration system. A fair, orderly, and humane legal immigration system will make America stronger and more prosperous for all.*

20. The California Future of Work Commission, which you helped lead, recommended that the government should improve job prospects for people regardless of immigration or citizenship status. It also called the federal government to "enact a job guarantee," and said this job guarantee should apply regardless of immigration status. These recommendations were in place in drafts of the report before you joined the U.S. Department of Labor. Does this represent your position?

21. As Secretary of Labor, would you seek to improve employment options for undocumented immigrants?

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*California's Future of Work Commission, consisting of business, labor, technology, government, and other leaders appointed by the Governor, identified challenges and made recommendations. The actual recommendation referred to in this question was about job creation, job readiness, and job access, specifically that all who want to work should have the opportunity, "including at the level and amount they desire to build a quality life." There is no mention of immigration in this recommendation.*

22. The Department of Labor is already in the process of promulgating new rules regulating how and when workers can engage in work independent of traditional employment. When you led the California Labor and Workforce Development Agency, you spearheaded initiatives that jeopardized independent contractor models. You lead the charge on AB 5, a bill that would have left millions of people unsure as to whether they could continue to work as independent contractors. Eventually, the law proved so unpopular that voters of California overwhelmingly rejected it. As the Department addresses the independent contractor issue, how will your approach differ from the approach you took in passing its controversial AB 5 law?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

23. There has been substantial discussion that your views on the proper role of independent contractors on our economy may be too narrow and we can expect you to promote policies that limit opportunities for independent work despite the flexibility such work can provide to parents and other caregivers. Can you provide a few examples of work that you view could be done legally by independent contractors seeking such flexibility?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

*DOL's proposed independent contractor rule proposes to rely on the long-standing, multi-factor "economic reality" test used by courts that considers the totality of the circumstances to determine whether a worker is an employee or independent contractor. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue, and represents the direction that DOL proposes to go in on this issue. If finalized, it would align DOL's standard for determining FLSA employee or independent contractor status with the standard currently applied by the courts.*

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the*

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*proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime.*

24. Do you consider California’s AB 5 law to be a policy success generally, and specifically as it relates to trucking?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

25. What is your message to self-employed truckers who were forced by AB 5 to leave California to save their business, income, lifestyle, and freedom to earn a living on their own terms?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

26. Many independent contractors choose to operate independently so they can determine their own schedules, grow their earning potential, and achieve their desired level of a work/life balance. Why should they be denied that right to choose their own career path?

*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will.*

27. Do you believe that the Department of Labor should consider contractual safety requirements between a motor carrier and an independent contractor as evidence of misclassification and a violation of the Fair Labor Standards Act?

*The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule.*

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28. The Inflation Reduction Act of 2022 provides over \$270 billion in tax credits for the construction of clean energy products. Unfortunately, this law also represents an unprecedented expansion of prevailing wage and government-registered apprenticeship requirements into the private sector, as taxpayers must ensure contractors comply with prevailing wage rates and apprenticeship work hour requirements to receive the full tax credit. Uncertainty has arisen among developers and contractors regarding how to ensure compliance with these unclear and complex new regulatory requirements. For example, prevailing wage determinations are not immediately available for many clean energy job classifications, and several state apprenticeship agencies are failing to approve apprenticeships for the solar installers and wind technicians needed to complete projects under this law. If confirmed, would you ensure that the Department of Labor meets its statutory requirements to closely work with the Department of the Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements under the Inflation Reduction Act?

*Yes, I commit to meeting all statutory requirements to closely work with the Department of Treasury to provide effective, clear guidance on prevailing wage and apprenticeship requirements. DOL and Treasury are in regular contact to ensure the law is successfully implemented.*

29. Are you confident that the Department of Labor has the capacity to help manage this massive expansion of these requirements imposed by the Inflation Reduction Act without delaying critical energy infrastructure?

*Yes.*

30. Last year, I led a bipartisan letter to the National Labor Relations Board (NLRB) raising concerns about its proposed rule regarding Joint-Employer Status. As you know, this rule replaced the 2020 Joint-Employer rule that focused on “direct and immediate control” and replaced it with an “indirect, reserved” control standard. The Joint-Employer rule has caused confusion for franchise owners for years. While I understand that the Department of Labor is not currently in active rulemaking with respect to the Joint-Employer Status, I would like to know whether you agree with the rule proposed by the NLRB, as someone seeking to be the most powerful labor official in the U.S. government?

*The rulemaking you are referring to is at the NLRB, an independent agency. I am not involved in the NLRB’s joint employer rulemaking.*

31. The Labor Department, which you are seeking to run and at which you have held a the second most senior role for almost two years, reversed a Joint-Employer rule put in place by the previous administration. Do you believe this change has reduced opportunities for small businesses to contract with other small businesses to provide needed services?

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*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA's relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

32. Neera Tanden, in her capacity of President of the Center for American Progress, held a panel on "Wages and Benefits" in December 2014 with you, Wage and Hour Administrator David Weil, Labor Secretary Tom Perez, and others. During this panel, you stated:

"Just this last term, the governor signed a bill that creates the concept of client-employer and that gets to the whole fissured workplace that David [Weil] has talked so much about and the idea here is that a century of labor laws are premised on the employer-employee relationship, so when you have these middle men and subcontracting, you really start to take away from that, from the protections between those at the top who contract for labor and those at the bottom. So, the client-employer concept is, if you hire workers through a labor contractor as part of your 'regular course of business,' and there is a whole definition for what 'regular course of business' means, but then you as the client-employer are responsible for all the wage liabilities as if you were the employer. And I think this has the potential to be a very important tool to GET AT the insulation between the top layers and bottom layers. And it will address the issues ... that used to be DIRECT EMPLOYEES."

You said, in your own words, that you think there is a problem that tools are needed to "GET AT" indirect employee constructs, like franchising. The prospect of this administration overstepping here is a significant and bipartisan concern in Congress. I even led bipartisan comments with Senators Manchin, Sinema, and King to raise concerns about the NLRB Joint-Employer rulemaking. After you came to DOL as Deputy Secretary, DOL RESCINDED the positive Joint-Employer rule that was in place, and replaced it with a new rule, immediately getting tied up in costly litigation in court, forcing DOL to withdraw its new rule later that year. How can we trust your past record, and action that has taken place at DOL while you have served in the second most senior role there?

*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA's relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

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33. Going back to your comments where you say we need to "GET AT" the insultation between the top and the bottom, do you agree with the principles behind DOL's decision to rescind a Joint-Employer Rule that was working and move forward with a different proposal?

*On July 30, 2021, the Wage and Hour Division published a final rule rescinding the prior Joint Employer Under the Fair Labor Standards Act rule because, among other reasons, that rule was inconsistent with the FLSA, failed to consider all of the FLSA's relevant statutory definitions, introduced a standard that prohibited consideration of the relevant facts, and had been mostly vacated by a federal court. WHD, with the advice and counsel of the office of the Solicitor of Labor, continues to apply applicable caselaw for determining joint employment under the FLSA. Joint Employer Rulemaking is not on the DOL Regulatory Agenda.*

34. Several franchise associations have raised serious concerns with your nomination due to their fear that, as the Secretary of Labor, you would implement policies that would threaten the franchise business model. You have been publicly vocal in supporting California's FAST Act, which is legislation that would establish an unelected council of government appointees to decide wages and working conditions at independently-owned fast food restaurants across the state. In May 2022, as Deputy Secretary, you told supporters of this bill "The Department of Labor stands with you. The Biden-Harris Administration stands with you." As Secretary, would you support a federal policy aimed at the changing the franchise model as the FAST Act would in California? Are franchisees in California or anywhere in the country wrong to be concerned about the effects of a policy like this?

*The May 2022 video call from which those remarks were taken was related to the release of a report on wage theft in the fast food industry. I did not comment on the FAST Act, which was a bill written and passed by the California legislature and signed by the Governor after I had already left my position in California. I was not involved in the bill in any way. In context, the remarks you cite above were in reference to wage theft and the Biden Administration's actions to prevent wage theft. They were not an endorsement of any particular piece of state legislation.*

35. The Mine Safety and Health Administration's (MSHA) upcoming proposed Crystalline Silica Rule for metal/nonmetal and coal mines is widely anticipated to reduce the existing silica exposure limit by half to meet the Occupational Safety Health Administration (OSHA) standard. OSHA specifically allows for the use of administrative controls to meet the standard but, in the past, MSHA has limited the use of administrative controls to meet emission limits. How does MSHA intend to proceed with its rulemaking given the significant technical and economic compliance issues for meeting the anticipated new standard without the use of administrative controls?

*The Department is very focused on protecting miners' health, including developing a proposed rule to better protect miners from exposure to respirable crystalline silica. In 2019, MSHA issued a Request for Information (RFI) that solicited information and data on feasible, best practices to protect miners' health from exposure to quartz in respirable dust and received comments from mining stakeholders. In developing a proposed rule, the Agency has reviewed*

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*comments from the 2019 RFI and considered relevant information from the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, public health experts, and stakeholders on controlling respirable dust at mines, exposure data, and scientific literature. Once MSHA publishes its proposed rule, mining stakeholders will have an opportunity to submit comments and provide testimony at a public hearing. MSHA will review and consider all comments and feedback as the Agency will continue to work to better protect the nation's miners from the potential health hazards associated with exposure to respirable crystalline silica.*

36. The Department of Labor is considering raising the salary threshold at which employees can be exempted from the Fair Labor Standards Act. Currently that level is \$36,500. Congressional Democrats have pressured the Department to raise that threshold to as high as \$82,000. Should the Department increase the exemption threshold to this level, over 20 million workers will be affected. Such changes would cause employers to reassess compensation packages for millions of workers nationwide. Millions of workers would be converted to hourly from salaried, have their hours reduced, have their base wages reduced, experience reductions in their bonuses and benefits and have fewer development and remote work opportunities. Do you support this proposed Overtime Rule and would you implement it as Secretary of Labor?

*We value input from all stakeholders and the DOL has held over two dozen listening sessions involving more than 2,000 participants representing small and large businesses, not for profit organizations, colleges and universities, workers, unions, and many others. We continue to evaluate this input and work toward the development of a proposed rule. Prior to issuing a final rule we will provide an opportunity for public comment on the rule and those comments and DOL's economic analysis will inform the rulemaking process.*

37. While the Obama Administration made changes to these overtime standards which were eventually struck down by the federal courts, the Department is nevertheless currently considering similar changes. As Labor Secretary, how would you ensure that these new rules will not suffer the same fate in court?

*Any proposed overtime regulations will adhere to the requirements of the FLSA.*

38. If an employee is changed from salary to hourly because of this Overtime Rule, the employer is responsible for tracking the employee's hours and liable for failures to do so. This potential liability might end up reducing opportunities for employees where tracking hours is difficult – such as traveling for career development or working remotely. Do you have any plan to address these potential negative impacts for affected workers?

*All stakeholder views and potential impacts will be taken into account during the rulemaking process.*

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39. You have written about Critical Race Theory, including arguing that our society is “built on white privilege and systemic racial subordination.” Does this statement represent your current views? If so, can you please elaborate?

*I’m very focused on creating opportunity for everyone and providing good jobs, regardless of race. As President Biden believes, we are a great nation that has at times fallen short of our ideals, but we’re always striving to get better. I agree with the President.*

40. You have argued that liberal and Democratic leaders are “complicit” in attacks that have rolled back civil rights. Can you explain which civil rights you believe liberal and Democratic leaders have been complicit in rolling back?

*That portion of a co-authored article about coalition building comments on how economic hard times attributable to a wide range of causes, including policies enacted by members of both U.S. political parties, can make civil rights alliances more fragile.*

41. You have written that corporations “promote and perpetuate economic injustice.” You have also written that economic injustice was a “natural byproduct” or even an “intended result” of corporations. Do you still believe this to be true?

*I believe that the vast majority of employers want to follow the law and treat their employees fairly. That is why I have stepped up the Department of Labor’s compliance assistance to make it as easy as possible for employers to comply with the law.*

42. If you still hold the view on corporations in the above statement, how do you believe this would affect the job you are seeking running the Department of Labor?

*I believe that the vast majority of employers want to follow the law and treat their employees fairly. That is why I have stepped up the Department of Labor’s compliance assistance to make it as easy as possible for employers to comply with the law. If confirmed, I will always listen to all stakeholders—including employers and employees on any issue.*

43. You have written that we should have a “doctrine of public nuisance” for companies that “have a detrimental effect on the overall health of the community.” Is this a doctrine that you would attempt to implement as Secretary of Labor?

*No.*

44. In 1989, the president of Stanford University had his office physically seized by students in a protest known as the “Takeover 89.” Stanford’s president described the 10-hour occupation of his office as “unlawful” and he described it as one of the “gravest student protests in the last 16 years.” Over 55 students stormed the president’s office, occupied the entrance to the office, ordering University staffers to leave the premises, and students blocked movement of a sheriff’s bus located outside the building. The Stanford Daily

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reported that "Unlike other sit-ins, where staffers were allowed to come and go as students sat on the floor, in last week's demonstrations students barricade doors from the inside and refused to permit any workers to enter. Students used two-by-fours, chains and ropes to seal off the entrances." The Stanford Daily also reported that "Students let the air out of the tires of a police vehicle that was in front of the bus and also flattened the tires of two other cars that had been parked to block the bus." The NAPA Valley Register reported that forty students "prevented a sheriff's bus full of arrestees from leaving by creating a blockade of bodies, cars and bicycles." And that, "Three other participants were cited for resisting and delaying an officer." While it was not disclosed in paperwork to the HELP Committee, it is a matter of public record that you took part in the storming of the president's office. Why did you choose to partake in this takeover?

*This was not a takeover. It was a student protest for equity on campus.*

45. Regarding this takeover, you told *The Napa Valley Register* that, "I think this only the beginning actually. It shows students aren't going to let down, they aren't going to be intimidated." Do you believe this type of behavior is acceptable on college campuses?

*Students have the right to peaceful protest under the First Amendment of the U.S. Constitution. I support the Constitution and the rights contained therein.*

46. Do you regret or disavow any of this behavior at Stanford?

*I do not regret exercising First Amendment rights.*

47. Were you associated with any groups or organizations when you partook in the 10-hour takeover of the Stanford president's office?

*There were many student organizations at Stanford working together and a broad-based coalition of students.*

48. In 1995, you were quoted by the *Los Angeles Times* as saying, "Well, I was arrested, but, you know, well, in the end, all the charges were dropped." In the files at the Stanford University library archive, you do not show up on the list of those arrested. Documents also indicate you left the protest, potentially through a window, to avoid being arrested. Additionally, an oral history in the archive indicates that you made a choice to leave the scene versus getting arrested. Were you actually arrested? Did you face any type of punishment legal or otherwise for participating in this takeover (i.e., community service or probation)? The Stanford Daily noted that some of the students came through the front window and were not arrested, while other students accused them of "abandoning their cause." Did you flee the scene of this takeover to avoid arrest?

*I have never been arrested.*

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49. If you were arrested, did you disclose this arrest to the state and federal jobs for which you were under consideration, or on your character and fitness documents with your state bar?

*I have never been arrested.*

50. Over what time frame were you the co-chair of the Asian American Students Association (AASA) at Stanford?

*I do not remember but if I was, it would have been at some point during my time as a student, which was between September 1987 and June 1991.*

51. A subsequent investigation by the *Stanford Daily* revealed that a radical Pro-CCP Marxist Leninist group called the League of Revolutionary Struggle closely collaborated with student groups, including the AASA, to plan the takeover and seizure of the president's office. The investigation of the League included more than 100 interviews with students, administration officials, and nationwide experts. The investigation makes clear that, "the recruitment process is secretive and individuals refuse to acknowledge that they are members of the League, it is difficult to prove whether anyone is a League member." Were you a member of this League?

*I was not a member of this League.*

52. Did you ever associate with members of this League while you were co-chairing the AASA at Stanford?

*I am not aware of any such association.*

53. Your AASA co-chair Richard Suh submitted a letter of resignation to AASA in October 1989. He sent this letter to members he believed to be members of the League. Suh said of his reason to resign, "I decided at some point that I felt like a lackey, because on a theoretical level [League members] were fighting for...another agenda. I felt that the progressive politics at Stanford were so dominated by this group, that I didn't feel independent unless I disconnected myself from progressive politics for a while." It is believed that you chose to stay on as chair of the AASA until March 1990 – ten months after the takeover, five months after Richard Suh's resignation, and after League presence and influence was known. Did you ever have reservations about staying on as AASA co-chair after the takeover in May 1989?

*I do not recall being aware of this letter of resignation nor of any of the circumstances referred to in this question.*

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54. Three years after the Takeover 89 at Stanford, you were a key participant, some may even say "ringleader" of the "Griswold 9," a group of radicals that seized and occupied a Harvard Dean's office in 1992. Do you deny being part of this group?

*This was a student sit-in that I participated in.*

55. Did you participate in an incident where students seized and occupied the office of a Harvard Law School Dean in 1992?

*I participated in one of the sit-ins that took place at Harvard Law School in 1992.*

56. Did you and other members of the "Griswold 9" wear masks and stage a disruptive sit-in in the corridor and office of Harvard Dean Robert Clark to protest the lack of underrepresented groups on Harvard's faculty in 1992?

*I participated in one of the sit-ins that took place at Harvard Law School in 1992. I do not recall wearing a mask, but I do believe a few students made photocopies of a picture of Dean Clark's face and tied them on with ribbons.*

57. Did you and other activists physically prevent the Dean and other employees from entering their offices and demand that the Dean publicly apologize for raising questions about affirmative action in a *Wall Street Journal* editorial days before this 1992 incident took place?

*I recall that there were actions on campus during that time to protest the Dean's remarks about students of color on campus.*

58. Was there ever any disciplinary action taken against you or other members of the Griswold 9 for your participation in the takeover of the Dean's office in 1992?

*My best recollection is that the students who participated in this sit-in received a "warning" which was removed from the files upon graduation.*

59. Explaining your role in the 1992 protest, you later told an interviewer in 2004 that "Law is the language of power. Those who speak it get the goods and those who don't do not." This wording about power is rooted in Critical Legal Theory. Do you still agree with this statement?

*I was the first lawyer in my family. Throughout my career, I have used my law degree to increase access to the legal system for those who are excluded and, as a leader in government, to ensure equal access and fair enforcement of laws. I am very focused on creating opportunity for everyone and providing good jobs, regardless of race. As President Biden believes, we are a great nation that has at times fallen short of our ideals, but we're always striving to get better. I agree with the President.*

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60. Did you participate in any office takeovers aside from the 1989 Stanford and 1992 Harvard incidents?

*No. These events were peaceful protests, not takeovers.*

61. Earlier this month, we saw another supply chain disruption from a work stoppage at the ports of Los Angeles and Long Beach. While we know the negotiations are a matter between the Pacific Maritime Association (PMA) and the International Longshore and Warehouse Union (ILWU), can you speak to what involvement you and the Biden Administration have in encouraging progress and a resolution of the nearly yearlong negotiation?

*It is my understanding that the situation in Long Beach and Los Angeles was not a work stoppage, but rather was the product of union members attending a union meeting, which is authorized by their collective bargaining agreement. I have been in regular touch with the parties to the West Coast port negotiations to offer support and to encourage them to work to reach an agreement.*

62. As you know, negotiations between the PMA and the ILWU have been ongoing for more than 10 months with very little progress. The contract expired last July, and the parties have been working without a contract in place. Failure to resolve these negotiations could have devastating consequences for the U.S. economy generally and retailers specifically. We witnessed disruptions impacting the Ports of Los Angeles and Long Beach a couple of weeks ago when all of the terminal gates were closed because labor didn't show up. Recently over 230 associations wrote a letter to the Biden Administration encouraging more engagement with the parties. There have been concerns raised by stakeholders during the negotiations over AB 5 and other policy issues that you discounted the business perspective and struggled to come to a workable solution for all parties. AB 5 is an example of this as it was in the end rejected by California voters. Given these concerns, can you please articulate your plan to work with the parties to achieve a new contract and avoid further disruption at the West Coast ports that would impact the U.S. economy?

*I have been in regular touch with the parties to the West Coast port negotiations to offer support and to encourage them to work to reach an agreement. I am encouraged by the parties' announcement last week that they have made significant progress in bargaining.*

63. The Biden Labor Department has issued a rule limiting the number of employees who can qualify for the tip credit, and you have called for the elimination of the tip credit, which allows workers to earn a lower minimum wage so long as their overall tips provide compensation at least equal to the statutory minimum. Most workers find they earn much more in tips, and last year voters in Portland, Maine, defeated an initiative to replace the tip credit with a minimum wage. I have introduced legislation that would clarify the definition of a tipped employee and prevent the administration from setting arbitrary limits or requirements in classifying the hours and duties that a tipped employee performs. As our nation faces record-high inflation and a possible looming recession, do you believe it is necessary to

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change the current law with respect to the tip credit and then put tipped employees at risk of bringing in lower wages than they do right now?

*In 2020 and 2021, the Department completed a series of rulemakings to update its regulations to protect tipped workers. These rulemakings addressed 2018 legislative amendments to section 3(m) and other sections of the Fair Labor Standards Act (FLSA) that expressly prohibit employers, including managers and supervisors, from keeping employees' tips. The rulemakings also updated the Department's "dual jobs" regulations addressing the circumstances under which an employer can take a partial credit against its minimum wage obligations based on the tips received by employees.*

64. In California, you led the Employment Development Department (EDD) during its unprecedented mismanagement of COVID-19-related unemployment insurance funds. During your tenure, EDD issued an estimated \$30 billion in fraudulent payments, hundreds of thousands of Californians experienced delays in receiving their benefits, and thousands were improperly denied benefits. The California State Auditor stated: "EDD's inefficient processes and lack of advanced planning led to significant delays in its payment of UI claims." Do you now agree with the Auditor's assessment?

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decisions I made were responsible for the increased fraud California experienced.*

*This includes my decisions related to the actions of EDD. To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state*

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*was on lockdown and there was limited ability to work. The State Auditor did not attribute the increased fraud to these decisions.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me. These efforts prevented over an estimated \$125 billion in fraudulent payments.*

65. In a January 26, 2021 letter from the California State Auditor to the Governor and the Legislature, it appears that you, in your capacity as the Secretary of the Labor and Workforce Development Agency, directed the EDD to pay certain claimants UI benefits without making key eligibility determinations and to temporarily stop collecting biweekly eligibly certifications. I know you have stated that your reason for issuing these directives was so that benefit payments could be disbursed more quickly, but did you not take into account the possibility of fraud occurring on a massive scale, as what ultimately happened?

*The Auditor did not find that any decisions I made were responsible for the increased fraud California experienced.*

66. The Department of Labor did not waive these certification and eligibility requirements for individuals seeking UI. Would you, as Secretary of Labor, waive them in a similar situation like you did in California?

*If confirmed as Secretary of Labor, I will follow the law that Congress enacts. From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

- *Program integrity is of the utmost importance to the Biden-Harris Administration. To date, the Administration has directed more than \$465 million in grant funding toward fraud prevention, detection, and recovery within the UI program; these were among the Administration's earliest and highest priority investments. States have used these grants to set up new systems for data analytics and cross matching; to bolster resources for overpayment recovery and fraud investigations; and to set up systems for automatic identity verification.*

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- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
- *The Department assembled teams of multi-disciplinary experts designed specifically to analyze state UI systems and process challenges. These **Tiger Teams** have delivered tailored technological, operational, and administrative recommendations to 30 states so far, including many recommendations that directly address integrity like identity proofing and authentication, claims risk scoring, and investigative claims management tools. On November 2, 2021, the Department announced \$200 million in funding available to states to improve UI systems to implement recommendations from the Tiger Teams.*
- *The Department has prioritized **identity verification** to prevent identity theft from being used to fraudulently obtain UI benefits. The Department issued guidance to states on April 13, 2021, reiterating their responsibility under the Social Security Act to have a system to ensure that the name and Social Security Number used to establish eligibility for UI benefits belong to the individual filing a claim, and providing best practices on how to do so. The Department is also deploying funds from the ARPA to pilot the use of the General Service Administration's (GSA) Login.gov platform as an identity verification solution, starting in the state of Arkansas and expanding to additional states this year. We are also partnering with the US Postal Service to provide in-person verification options that can reach rural populations and others that can struggle with digital identity verification.*
- *The Department has initiated **technology pilot projects** with select states to develop technology tools that all states can scale, leverage, and adopt as they pursue the modernization of their benefit and tax systems. Throughout the course of this fiscal year, Department funding and technical support to states will ensure that digital experiences can promote accurate and efficient payment of benefits, anticipate change, and effectively integrate anti-fraud technologies into state UI systems. For example, the Department will be promoting incremental approaches to technology modernization that will help states incorporate modular technologies that can quickly implement new program requirements or new technology mechanisms and workflows to screen out potentially fraudulent claims. The Department is consistently making these tools available to the states as they are developed.*

*The Department has emphasized the need for states to refer allegations of fraud, waste, abuse, mismanagement, and misconduct to the Department of Labor Office of Inspector General (DOL-OIG) and has facilitated DOL-OIG's access to state UI data on potentially fraudulent claims so that criminal actions perpetrated against the unemployment system can be prosecuted.*

67. How can you assure the American taxpayers that their money would not be grossly mismanaged as it was for the California taxpayers in the event you were to be leading the Department of Labor during a similar unemployment crisis?

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*There is no excuse for fraud and abuse of taxpayer money. From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

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- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
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68. President Biden has publicly stated that he intends to be "the most pro-union President in history." The Biden Administration has attempted to fulfill this mission with policies that benefit union workers to the exclusion of all other workers. For example, through regulations on federal procurement and language in federally-assisted grant programs, the administration has promoted project labor agreements (PLAs) on construction projects. PLAs limit the pool of qualified bidders to primarily unionized contractors and union labor, increasing costs and limiting job opportunities for non-union construction workers. Competition from small, minority- and women-owned federal contractors and their diverse workforces, are also disproportionately harmed by PLA mandates. If confirmed as a Secretary of Labor for all Americans, regardless of their labor affiliation, will you oppose these exclusionary policies that harm the 88.3 percent of construction workers that choose not to join a union?

*I support the collective bargaining rights of workers. I also recognize the right of workers to choose not to unionize. If confirmed as Secretary of Labor, I will faithfully implement the President's policies in accordance with the law.*

69. In addition to the president's public statements, you have also made several public statements expressing unequivocal support for the interests of unions. In the role of Secretary of Labor, how can you be seen as acting in good faith as an unbiased negotiator in high-profile labor disputes when your philosophy that seemingly favors one side over the other in all cases is so well-known?

*I strongly support the practice of collective bargaining and the right of workers to form and join unions. My role as Secretary of Labor is to support the parties in the collective bargaining process as they work to reach an agreement, not to take sides in the negotiations.*

70. As Deputy Secretary, you traveled to Mexico to announce \$28 million in grants to support projects in Mexico, including labor organizing. Why should U.S. taxpayers spend money to support labor unions in Mexico?

*ILAB's mission is to strengthen global labor standards, enforce labor commitments among trading partners, promote racial and gender equity, and combat international child labor, forced*

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*labor, and human trafficking. ILAB's grants to build employer, labor, and government capacity in Mexico support compliance with labor commitments under the U.S.-Mexico-Canada Agreement, contributing to a more even playing field for U.S. workers and businesses.*

71. The U.S. unemployment rate stood at 3.5 percent in March 2023, hovering a near fifty-year low. However, the number of job openings climbed to over 11 million in December 2022. The ongoing labor shortages stem from the inevitable demographic changes. In 2020, more than one in six Americans were 65 or older. The U.S. Census research shows that by 2060, nearly one in four Americans will be at least 65 years old and the number of people older than 85 will triple. As the society gets older, the overall workforce shrinks, making it harder for employers to find enough workers to fill the gaps. If you are confirmed as the Secretary of Labor, how do you plan to ensure that critical jobs are filled in the face of a shrinking number of workers?

*If confirmed, I will do everything I can to ensure that our nation's workers are ready for the jobs of the future. I am incredibly proud of the work I've led with Secretary Walsh at the Department to expand workforce training. With regard to the realities of an aging workforce in critical industries, I'm especially proud of our work to help more youth find career paths into the labor market that don't require a four-year degree. We've launched a national, Youth Employment Works strategy to work with business to expand more paid work experience opportunities for our young people that connect them with careers in manufacturing, IT, healthcare and the trades. We are also working hard to expand apprenticeships and connect them to our high schools so that students can start a career path early connected to in-demand job in their community.*

*With two trillion dollars in federal infrastructure funding becoming available, it's critically important that people get the skills they need to access jobs in sectors of the economy that will be spurred by these investments in advanced manufacturing, clean energy, the trades and more. As President Biden has said consistently since his time as vice-president and as a Senator, we need to support partnerships between all the players who care about training -- community colleges; businesses; unions; state, local, and tribal governments; nonprofits; universities; and high schools. I firmly believe this as well. These kinds of partnerships can identify in-demand knowledge and skills in a community and develop, ~~or~~ modernize and scale training programs that lead to relevant, high-demand industry-recognized credentials.*

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries – which can be connected to our high schools to build a next generation, competitive workforce. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention. While there is unique value to Registered apprenticeship, it is only one of a wide range of workforce training efforts the Department is leading and investing in that we must expand. Other earn and learn programs, as well as workforce training programs in partnership with community colleges, community-based organizations, industry groups, state*

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*and local governments are actively and broadly supported by the Department through targeted grant investments as well as through programs supported at the state and local level through funding administered by the Workforce Innovation and Opportunity Act.*

**Senator Markwayne Mullin's QFRs (R-OK)**

1. If confirmed in what ways do you believe you would be similar to former Secretary Walsh in his leadership of the department?

*Secretary Walsh and I worked hand-in-hand to set the overall direction of the DOL for nearly two years. We both believe deeply in creating opportunity for hardworking people to get the skills they need to fill in-demand jobs. Like President Biden, we believe in growing the economy from the bottom up and the middle out. Like Secretary Walsh, I will continue to work to expand apprenticeship programs to new sectors of the economy and work to create more opportunities for hardworking people to get good-paying jobs.*

2. If confirmed, how will you differentiate yourself from former Secretary Walsh in your leadership of the Department of Labor?

*I am squarely focused on helping hardworking people access good-paying jobs and opportunities, delivering the Department's programs and services efficiently and effectively, and ensuring that employers have the information they need to make following the law as simple as possible.*

3. While I appreciated the opportunity to meet with you in advance of your nomination hearing in the HELP Committee, I am disappointed that you did not make yourself available for a staff-level interview. This is a common practice in the Senate and an important part of the Constitutional advise and consent process for Presidential nominees.
  - a. If confirmed, will you commit to working in an open, transparent, and collaborative way with Senators and their staff regardless of political party?

*Yes. I am committed to working in an open, transparent, and collaborative way with Senators and their staff, ensuring that the Department is responsive to oversight requests and provides Congress with the information that it needs consistent with relevant law and regulation.*

4. In 2005, you wrote that, "The very definition of a corporation as an entity that is created to permit maximum income and designed to insulate the individuals who will profit from liability for the acts of that entity, seems to promote and perpetuate economic injustice."
  - a. Can you please explain why you believe that the very definition of a corporation promotes and perpetuates "economic injustice"?
  - b. Do you still believe that the very definition of a corporation promotes and perpetuates "economic injustice"?

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*I believe that the vast majority of employers follow the law.*

5. On May 12, 2022, you appeared on a video call with SEIU supporting California's A.B.257, the Fast Food Accountability and Standards Recovery (FAST) Act. A.B.257 gives a board of unelected individuals complete autonomy over the fast food industry, including the power to set minimum wages of up to \$22, establish employment conditions, and create new regulations. On the call, you stated in your official capacity that "The Department of Labor stands with you. The Biden-Harris Administration stands with you." Implementation of law has been paused until 2024 after hundreds of thousands of Californians signed petitions disapproving the law and putting on the ballot as a referendum.
  - a. Do you believe small business owners or the government should be more involved in making the economic decisions of those small businesses?

*The May 2022 video call from which those remarks were taken was related to the release of a report on wage theft in the fast food industry. I did not comment on the FAST Act, which was a bill written and passed by the California legislature and signed by the Governor after I had already left my position in California. I was not involved in the bill in any way. In context, the remarks you cite above were in reference to wage theft and the Biden Administration's actions to prevent wage theft. They were not an endorsement of any particular piece of state legislation.*

*Small businesses are an engine of our economy. I have tremendous respect for small business owners. Small businesses should make economic decisions and those decisions should be consistent with the law.*

6. Working as an independent contractor provides individuals with the flexibility to work where, when, and how often they want—and in a manner that aligns with their personal obligations and lives. Flexible work opportunities have been a game changer for parents working around their children's schedules, or those caring for family members or others. During your time as Deputy Secretary, the Department of Labor proposed the independent contractor rule which all but eliminates the classification of independent contractors.
  - a. Do you think Americans should have the choice to be entrepreneurs, to create their own business and to work as independent contractors if they want to?
  - b. Do you think the government should make that decision for them by limiting that choice in any way?
  - c. Can you name three jobs that you believe can properly be held by independent contractors under the new rule?
  - d. If confirmed, will you support the currently promulgated Independent Contractor Rule?

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*Bona fide independent businesses, including workers who are independent contractors in business for themselves, have always had a place in our economy and always will. The Department issued a proposed rule on independent contractor status under the FLSA in October 2022, including a full analysis of relevant case law and economic impacts of the proposed rule. Our proposed rule reflects long-standing Department guidance and judicial precedent on this issue, and represents the direction that DOL proposes to go in on this issue. The comment period for the proposed rule closed on December 13, 2022, and we received more than 55,400 comments from businesses, workers, and independent contractors alike, representing a wide variety of views. The Department will carefully consider the comments received in drafting a final rule, and cannot express a position in the meantime. The Department routinely provides user-friendly guidance materials along with final rules to ensure that workers and businesses alike — and especially small businesses — understand their rights and responsibilities under the rules.*

7. You have called the ABC test an important element in California and “a model for the country,” yet the law (A.B.5) imposing an ABC test resulted in over 100 carve-outs to preserve the ability to work for many across the state. Further, the voters of California disagreed with your assessment and passed Proposition 22 with nearly 60% of the vote, which substantially altered A.B.5.
  - a. Do I understand correctly that over 100 professions were ultimately exempted by the California state legislature?
  - b. Can you explain to why it was necessary for the California legislature to go back and provide so many exemptions to A.B.5’s application?
  - c. Were independent truck drivers included in the more than 100 exemptions to AB-5 that were implemented after the law’s enactment?
  - d. If independent truck drivers were not included, why was that the case?
  - e. Did you consider the effects on independent truck drivers before pledging your support for A.B. 5?
  - f. Do you believe that the ABC test should be implemented by the federal government?

*The California legislature, of which I have never been a part, enacted AB5 in response to a California Supreme Court ruling to address misclassification of workers under California law – not federal law. If confirmed as the Secretary of Labor, my job will be to implement federal law, and I will do so faithfully.*

8. On March 31, 2023, the Office of Personnel Management released updated guidance “advancing gender identity inclusion in the federal workplace.” The guidance contained new requirements for agencies to develop “support” plans for “transitioning” employees.
  - a. If confirmed, how would you implement this guidance at the Department of Labor?
  - b. How many genders exist in your opinion?
  - c. Can you please define what a woman is?
  - d. Can you please define what a man is?

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*DOL upholds the policy of the Federal Government to treat all its applicants and employees with dignity and respect and to provide a workplace that is free from discrimination. Supreme Court case law makes clear that employment discrimination on the basis of gender identity and sexual orientation is prohibited. The OPM guidance instructs federal agencies to review and revise policies, practices, and any associated trainings to provide a non-discriminatory and inclusive work environment to applicants and employees irrespective of their sex, gender identity, gender expression, or sexual orientation, consistent with current law and executive policy. DOL continues to review its policies, training and guidance to ensure that an employee's gender transition is treated with privacy and confidentiality in the workplace.*

9. In Oklahoma, there are over 10,000 small businesses who are franchises, and they support over 110,000 jobs.
- a. What is your opinion on the role of the franchise business model in the overall economy?

*Franchise businesses are an important part of our economy. My own parents were franchisees. Franchising can provide an opportunity for hardworking people, including immigrants and women of color, to gain a foothold in the middle class.*

- b. What policies would you advocate for to support franchise businesses' growth and success?

*I would support workforce development initiatives and compliance assistance initiatives that help businesses recruit skilled workers and make it easy to follow the law.*

- c. Are you aware that the Joint-Employer Rule proposed by the NLRB would completely undermine the franchising business model?

*I am not involved in the NLRB's joint employer rulemaking.*

- d. If confirmed, will you commit to reversing the effects of this rule on franchisors and franchisees or at the very least commit to protect this highly successful business model?

*The DOL does not have any authority over the NLRB or its rules.*

10. The minimum wage has been a subject of ongoing debate, with Members of Congress such as Sen. Sanders calling for a higher federal minimum wage.
- a. Do you support an increase to the federal minimum wage?
  - b. Do you support a change in federal law to require employers to pay a \$17 minimum wage, as Sen. Sanders has argued for?
  - c. Are the local economies of different states different from each other?
  - d. Does an increase in the federal minimum wage affect all 50 states in the same way?

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- e. Would you agree that Oklahoma employers, whose state minimum wage is \$7.25, would be affected more severely than CA employers whose state minimum wage is \$15.50, if the federal minimum wage were to be increased to \$15 or \$17?
- f. Given the economic differences between states, do you believe that state governments or the federal government should be primarily responsible for setting the minimum wage?

*Establishing the federal minimum wage under the Fair Labor Standards Act is within Congress's purview, and I will faithfully enforce the law as enacted by Congress.*

- 11. Apprenticeship programs are an extremely effective way to provide workers with training and skills for high-demand jobs.

- a. Would you agree that apprenticeship programs would be helpful beyond the traditional labor professions like construction and in industries such as healthcare, cybersecurity, among others?

Yes.

- b. If confirmed, how would you promote and expand apprenticeship programs in industries where apprenticeship opportunities are not widespread?

*I am a strong supporter of an expanded and thriving Registered Apprenticeship system – across all industries - to build a next generation, competitive workforce. Registered apprenticeship is a proven, evidence-based strategy that delivers outcomes for workers and a return on investment for employers by enhancing recruitment and retention.*

*It is critical the Department continues to invest in states and other private sectors partners to make it easier for employers to engage and generate growth across a range of industry sectors, including manufacturing, finance, information technology, healthcare and more. Since Jan 2021, over 4,600 new apprenticeship programs have been registered (by US DOL or with State Apprenticeship Agencies) with over 11,000 employers newly participating in the Registered Apprenticeship system. The Department has also led strategic initiatives to rapidly scale apprenticeship programs in diverse areas from trucking to cybersecurity, to K-12 teachers.*

*Further, the Department must continue to advance a number of new promotional initiatives to engage employers and other stakeholders to strengthen, diversify, modernize and expand Registered Apprenticeship. These initiatives include:*

***Funding Industry Intermediaries to expand RAPs in high-growth industries.*** *These partners increase awareness through industry outreach, connect employers and labor organizations with workforce and education partners, and provide technical assistance, as well as seed funding, to launch and expand Registered Apprenticeship programs.*

***Expanding the Apprenticeship Ambassadors Initiative.*** *the Apprenticeship Ambassadors are a national network of employers, labor organizations, industry associations, program sponsors, educators, workforce intermediaries, minority serving organizations, community-based*

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*organizations, and other stakeholders to serve as champions for expanding and diversifying Registered Apprenticeship. Currently there are 205 Ambassador organizations, which have committed to completing various marketing and promotional activities.*

***Building Awareness of ApprenticeshipUSA brand.*** *On August 16, 2022, the Department launched ApprenticeshipUSA, which is a unifying brand that encompasses the entire National Registered Apprenticeship system and brings awareness to the proven and successful Registered Apprenticeship model.*

***Deploying Office of Apprenticeship Industry Liaisons.*** *Industry Liaisons are Office of Apprenticeship staff that serve as central points of contact and subject matter experts for developing and expanding Registered Apprenticeships in various high-demand industries.*

12. In 2019, the Trump Administration created the Industry-Recognized Apprenticeship Program (IRAP) rule, which created a new type of apprenticeship that would be run by business groups, colleges, and other private entities, rather than by the federal government. In 2022, while you were Deputy Secretary, the Biden Administration's Department of Labor announced a final rule to rescind the IRAP.
- a. How many previously recognized SREs and IRAPs will be affected by the new rule?
  - b. How many apprentices do the previously recognized SREs and IRAPs provide services for?
  - c. If confirmed, how do you plan to ensure that the affected apprentices are able to continue to grow their skills and knowledge in industries which previously did not have readily available apprenticeship opportunities?

*The rescission of the 2020 IRAP rule enabled the Department to refocus its efforts and resources on expanding, modernizing, strengthening, and diversifying the current Registered Apprenticeship system. The Department determined it would yield better results by investing in and modernizing the Registered Apprenticeship system than could be achieved through a duplicative new program in IRAPs. As part of its final rule, the Department will work with previously recognized Standards Recognition Entities and IRAPs, some of whom were already simultaneously engaged in the RA system. Specifically, the Department will help SREs explore opportunities to become program sponsors or intermediaries in the RA system, and will provide IRAP apprentices with resources to connect them with Registered Apprenticeship as well as other training opportunities. The Department is committed to working with Congress on the effort to continue to grow and modernize the Registered Apprenticeship system.*

13. Many small businesses struggled to survive during the COVID-19 pandemic due to various restrictions and regulations imposed by state and local governments.
- a. What is your position on how these regulations have impacted small businesses?

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- b. If confirmed, what steps would you take to ensure that small businesses are not unduly burdened by federal labor regulations as they complete their recovery from the pandemic?

*The Department routinely provides compliance assistance as well as user-friendly guidance materials, along with final rules to ensure that workers and businesses alike — and especially small businesses — understand their rights and responsibilities under the rules.*

14. In 2020, you oversaw implementation of CA’s emergency COVID-19 workplace safety rule and forced employers to provide weekly testing for all employees and paid leave for an infinite duration to any employee who tested positive, regardless if they contracted COVID-19 while on the job.
- a. In hindsight, do you believe you handled the COVID-19 pandemic appropriately with respect to these actions?

*I wish we had all been more prepared for the crisis that was the COVID-19 pandemic. I believe we all learned valuable lessons in 2020 that we will be able to carry forward in the future should another such crisis happen.*

15. On October 30, 2020, you tweeted that “CA’s leadership on climate and quality jobs go hand in hand as we work to make @GavinNewsom’s Exec Order to transition to zero-emission vehicles a reality. Today we announce a new workforce development partnership between CWDB and CPUC @CAforAll.”
- a. If confirmed, do you plan to support workers in the fossil fuel industry?
- b. If you answered yes to the previous question, what regulations will you advance or rescind that supports workers in the fossil fuel industry?
- c. If confirmed, will you commit to not discriminating against traditional energy sectors in favor of the renewable energy industry?

*DOL’s mission is “To foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.” We carry out this mission for workers in every industry.*

16. The vast majority of the critical minerals involved in the production of electric vehicles are sourced from China where worker protections are much weaker than the United States.
- a. Will a push towards “zero-emission vehicles,” which you have so clearly championed, increase or decrease our reliance on the Chinese labor market?

*The Biden Administration is promoting domestic manufacturing of clean energy vehicles by making historic investments in this sector that will be an engine of domestic job creation.*

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17. Under your tenure as Secretary of CA's Labor and Workforce Development Agency, you oversaw CA's Employment Development Department (EDD) mismanagement of COVID-19 unemployment insurance funds. EDD issued an estimated \$32.6B in fraudulent payments, which is almost as much as the entire budget for the U.S. Dept. of Labor (\$41B). Proper payments were delayed for roughly 5 million workers and improperly denied for likely 1 million more.
- a. If confirmed, how do you plan to prevent unemployment insurance fraud in your role at the Department of Labor?

*From the start of my time in the Administration, DOL has committed resources and taken action to improve states' ability to deter fraud and get unemployment insurance out in a timely fashion. We don't just need committed state UI staff, but we need a federal framework to make these much-needed payments more accessible for unemployed workers and to stop fraudulent payments from going out. Some things that DOL is working on that we would love to collaborate with Congress on:*

- *Program integrity is of the utmost importance to the Biden-Harris Administration. To date, the Administration has directed more than \$465 million in grant funding toward fraud prevention, detection, and recovery within the UI program; these were among the Administration's earliest and highest priority investments. States have used these grants to set up new systems for data analytics and cross matching; to bolster resources for overpayment recovery and fraud investigations; and to set up systems for automatic identity verification.*
- *I will work with Congress to discuss proposals in the President FY24 budget that would require states to use a series of cross-matching technologies to detect suspicious claims, such as the Integrity Data Hub developed by the Department with the National Association of State Workforce Agencies to detect multi-state fraud actors and the Social Security Administration Prisoner Updated Processing system, and allow states to retain a portion of recovered fraudulent overpayments for expanded fraud prevention activities.*
- *Department assembled teams of multi-disciplinary experts designed specifically to analyze state UI systems and process challenges. These Tiger Teams have delivered tailored technological, operational, and administrative recommendations to 30 states so far, including many recommendations that directly address integrity like identity proofing and authentication, claims risk scoring, and investigative claims management tools. On November 2, 2021, the Department announced \$200 million in funding available to states to improve UI systems to implement recommendations from the Tiger Teams.*
- *The Department has prioritized identity verification to prevent identity theft from being used to fraudulently obtain UI benefits. The Department issued guidance to states on April 13, 2021, reiterating their responsibility under the Social Security Act to have a system to ensure that the name and Social Security Number used to establish eligibility for UI benefits belong to the individual filing a claim, and providing best practices on how to do so. The Department is also deploying funds from the ARPA to pilot the use of the General Service Administration's (GSA) Login.gov platform as an identity verification solution, starting in the state of Arkansas and expanding to additional states this year.*

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- *The ARPA Equity grants are funding states' efforts to improve equitable access to the UI system for workers, including people in rural areas, with disabilities, with low levels of literacy, and with language access barriers. The grants we've sent to a number of states have funded programs like translating documents into different languages, hiring community navigators to explain UI benefits to vulnerable communities, making websites accessible to people with disabilities, addressing access barriers facing rural communities, and placing in-person staff in American Job Centers to help clear backlogs.*
- *The Department has initiated technology pilot projects with select states to develop technology tools that all states can scale, leverage, and adopt as they pursue the modernization of their benefit and tax systems. Throughout the course of this fiscal year, Department funding and technical support to states will ensure that digital experiences can promote accurate and efficient payment of benefits, anticipate change, and effectively integrate anti-fraud technologies into state UI systems. For example, the Department will be promoting incremental approaches to technology modernization that will help states incorporate modular technologies that can quickly implement new program requirements or new technology mechanisms and workflows to screen out potentially fraudulent claims. The Department is consistently making these tools available to the states as they are developed.*

*The Department has emphasized the need for states to refer allegations of fraud, waste, abuse, mismanagement, and misconduct to the Department of Labor Office of Inspector General (DOL-OIG) and has facilitated DOL-OIG's access to state UI data on potentially fraudulent claims so that criminal actions perpetrated against the unemployment system can be prosecuted.*

18. On January 29, 2020, you tweeted that "A world-class workforce system demands racial justice."
- a. Please define in your own words what you meant by "racial justice."
  - b. If confirmed, how would you incorporate your perspective on racial justice into your leadership at the Department of Labor?

*I believe in equal employment opportunity and creating opportunity for people from all backgrounds and all walks of life.*

19. If confirmed, do you plan to retain the Department of Labor's position of Chief Diversity and Equity Officer?

*Yes. Executive Order 14091 directs the Department to designate a senior official charged with implementing the Administration's equity initiatives.*

20. You have argued that America is a "society built on white privilege and systemic racial subordination."
- a. Do you still believe that America is a society built on white privilege and systemic racial subordination?

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*I'm very focused on creating opportunity for everyone and providing good jobs, regardless of race. As President Biden believes, we are a great nation that has at times fallen short of our ideals, but we're always striving to get better. I agree with the President.*

21. Your essay on critical race theory in 2002 argues that CRT is a way to "productively explore" how to "explode the constricted, colorblind civil-rights paradigm." You go on to write that, "The attack by some that [CRT] is about race, power, and politics, but not about law, tells us that it is law – or more specifically, how we traditionally do law – that needs to change."
- a. Are you planning to incorporate this perspective on CRT in the regulations that the Department of Labor will put on businesses?

*I'm very focused on creating opportunity for everyone and providing good jobs, regardless of race. As President Biden believes, we are a great nation that has at times fallen short of our ideals, but we're always striving to get better. I agree with the President.*

22. When the Supreme Court struck down *Roe v. Wade*, a number of businesses announced they would offer a new benefit to employees to facilitate their travel to obtain out-of-state abortions if they live in a state which has banned abortion. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of sex and on the basis of pregnancy status.
- a. In your legal opinion, does Title VII prohibit discrimination against pregnant women under the law?

*The Pregnancy Discrimination Act of 1978, which amended Title VII, prohibits discrimination on the basis of pregnancy, including, but not limited to, childbirth or related medical conditions.*

- b. Is it a violation of Title VII for companies to provide financial benefits to employees traveling out of their state to obtain abortions while providing no equivalent benefits to employees who desire to travel out of state to receive medical care to maintain pregnancy?

*Title VII is enforced by the EEOC, not the Department.*

23. The Mine Safety and Health Administration's (MSHA) upcoming proposed crystalline silica rule for metal/nonmetal and coal mines is widely anticipated to reduce the existing silica exposure limit by half to meet the Occupational Safety Health Administration (OSHA) standard. OSHA specifically allows for the use of administrative controls to meet the standard but in the past MSHA has limited the use of administrative controls to meet emission limits.
- a. How does MSHA intend to proceed with its rulemaking given the significant technical and economic compliance issues for meeting the anticipated new standard without use of administrative controls?

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*The Department is very focused on protecting miners' health, including developing a proposed rule to better protect miners from exposure to respirable crystalline silica. In 2019, MSHA issued a Request for Information (RFI) that solicited information and data on feasible, best practices to protect miners' health from exposure to quartz in respirable dust and received comments from mining stakeholders. In developing a proposed rule, the Agency has reviewed comments from the 2019 RFI and considered relevant information from the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, public health experts, and stakeholders on controlling respirable dust at mines, exposure data, and scientific literature. Once MSHA publishes its proposed rule, mining stakeholders will have an opportunity to submit comments and provide testimony at a public hearing. MSHA will review and consider all comments and feedback as the Agency will continue to work to better protect the nation's miners from the potential health hazards associated with exposure to respirable crystalline silica.*

24. On December 22, 2022, the Department of Labor announced a final rule that allows plan fiduciaries to consider climate change and other environmental, social and governance (ESG) factors when they select retirement investments and exercise shareholder rights.
- a. Do you support this final rule?
  - b. Are you aware that mutual funds scoring highly on ESG factors are consistently outperformed by funds rated lowest for ESG?
  - c. Should plan fiduciaries consider ESG factors more highly or less highly than financial return when making investment decisions on behalf of 152 million current or former workers?
  - d. If confirmed, would you lead the Department to repeal the final rule?

*I fully support DOL's Final Rule under the Employee Retirement Income Security Act (ERISA) to empower plan fiduciaries to safeguard the savings of America's workers by making it clear that, when appropriate, fiduciaries may consider environmental, social, and governance (ESG) factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations. The final rule also made clear, as discussed further below, that fiduciaries can never sacrifice financial returns in order to pursue an ESG goal.*

*The proposal addresses the Department's concern that two 2020 final rules issued by the prior Administration created uncertainty and had the undesirable effect of discouraging ERISA fiduciaries' consideration of ESG factors in investment decisions, even in cases when it is in the financial interest of plans and their participants to take such considerations into account. This uncertainty may have deterred fiduciaries from taking steps that other marketplace investors take to maximize their risk-adjusted returns by enhancing investment value and performance or improving investment portfolio resilience against the potential financial risks and impacts associated an ESG factor. Page 148 of 160*

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*The Final Rule continues the Department’s focus on the core statutory principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on risk-return factors and not subordinate the interests of participants and beneficiaries (such as by sacrificing investment returns or taking on additional investment risk) to objectives unrelated to the provision of benefits under the plan. See Prop. 29 CFR 2550.404a-1(a), (b), (c) and (d). As the Final Rule itself expressly states: “A fiduciary may not subordinate the interests of the participants and beneficiaries in their retirement income or financial benefits under the plan to other objectives, and may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries in their retirement income or financial benefits under the plan.”*

25. During your time at the Department of Labor, the Occupational Safety Health Administration (OSHA) significantly expanded its “Severe Violator Enforcement Program,” which is an enhanced inspection program for employers OSHA deems to be sever violators. In January of 2023, OSHA also announced a yearly increase to the maximum civil penalties that can be assessed during workplace safety and health inspections (New max is \$15,625 per serious violation).
- a. How will you ensure that OSHA does not abuse its authority to penalize small businesses for minor violations?

*I value the small businesses that employ millions of workers across our country and my experience is that most businesses want to do the right thing when it comes to their workers and customers. OSHA also has an important mission to protect our workers and ensure that all workers remain safe and healthy on the job. Cooperation with employers, including small businesses, is key to making sure this happens. If confirmed as Secretary of Labor, I will work with OSHA to ensure that it is enforcing the law in a manner consistent with federal law.*

26. In 2021 and under your oversight, OSHA required companies with 100 or more employees to ensure their workforce was fully vaccinated or to test weekly. The action was later struck down by the Supreme Court.
- a. Do you believe that the government or business owners better understand what’s best for their employees’ health and wellbeing?
  - b. If confirmed, will you commit to lead the Department of Labor in a way that respects the checks and balances established in the U.S. Constitution and refrain from allowing the DOL to transgress into the lawmaking authority vested in the legislative branch of government?

*The constantly evolving nature of COVID-19 has created many challenges. The Occupational Safety and Health Administration (OSHA) has worked closely with its federal partners, including the Food and Drug Administration, National Institute for Occupational Safety and Health, and the Centers for Disease Control and Prevention (CDC), to implement a government-wide*

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*strategy to protect the health of working people. OSHA's guidance and standards have, where appropriate, maintained consistency with CDC recommendations. OSHA will continue to carry out this mission and will use all tools provided under the Occupational Safety and Health Act in doing so, consistent with relevant law and judicial precedent.*

27. Several major collective bargaining negotiations are underway across the nation, such as the negotiations between the Pacific Maritime Association and the International Longshore and Warehouse Union as well as the negotiations between UPS and the Teamsters.
- a. Have you ever successfully facilitated negotiations between labor unions and their management during strikes or lockouts?
  - b. If you answered yes to successfully negotiated between labor unions and their management, what was the date of the negotiations?
  - c. If you answered yes to successfully negotiated between labor unions and their management, who were the parties in the negotiations?
  - d. If you answered yes to successfully negotiated between labor unions and their management, how did your actions specifically facilitate a successful outcome?

*I have worked with former Secretary Walsh to support the parties to the freight rail negotiations and the ongoing West Coast port negotiations. My role is to support the parties as a neutral arbiter and urge them to work to reach agreement, not to take sides in the negotiations.*

28. Generally, under what circumstances do you think it is appropriate for the government to invoke Taft-Hartley to resolve labor disputes?

*The determination of whether to invoke Taft-Hartley is the President's prerogative, not the Secretary of Labor's.*

29. Regarding the West Coast Ports, Pacific Maritime Association, the bargaining agent for the employers, and the ILWU commenced negotiations almost one year ago on May 10. The contract expired on July 1. Since then, the negotiations have not resulted in a new contract. Recently, over 230 associations wrote a letter to the Administration encouraging more engagement with the parties.
- a. How would you characterize the current state of the negotiations?
  - b. If the ILWU orders a strike or the employers order a lockout, what recommendations would you make to the White House, if confirmed, for addressing one or both of those circumstances?
  - c. If the ILWU orders a strike or the employers order a lockout, would you recommend invoking Taft-Hartley?

*I have been in touch with the parties since before the negotiations started in May 2022. I traveled to the West Coast ports with former Secretary Walsh on two occasions to meet with the*

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*parties. I will continue to engage with the parties to encourage them to work to reach an agreement. I am encouraged by their announcements last week that they have made significant progress. The issue of Taft Hartley injunctions is for the President, not the Secretary of Labor. Neither party has indicated that a strike or lockout is going to happen; to the contrary, the parties have indicated that they intend to stay at the bargaining table and reach an agreement.*

30. Regarding the talks between UPS and the Teamsters, the Teamsters President recently referred to UPS as a "crime syndicate." He further stated that "July 31st, when Big Brown is shut down, you're going to see supply-chain solution come to a halt. And you know what? We're not afraid to do it. We're not afraid to do it."
- a. How would you characterize the current state of the negotiations?
  - b. If the Teamsters order a strike or UPS orders a lockout, what recommendations would you make to the White House, if confirmed, for addressing one or both of those circumstances?

*It is my understanding that the parties began negotiations on April 17, 2023, and the contract does not expire until the end of July 2023. I would make an assessment and recommendations based on the circumstances presented at the time.*

**Senator Roger Marshall's QFRs (R-KS)**

1. Deputy Secretary Su, you appeared on a [May 12, 2022 video call](#) with SEIU supporting a bill called A.B. 257 that takes away the independence of small business restaurant owners in California by creating a board of ten unaccountable, unelected government appointees to dictate wages and working conditions for small businesses. On the call, you stated in your official capacity that "[The Department of Labor stands with you. The Biden-Harris Administration stands with you.](#)"
  - a. What did you mean by that? Will the Department of Labor under your supervision support policies to take away the autonomy of independent entrepreneurs, especially those in Kansas?

*The May 2022 video call from which those remarks were taken was related to the release of a report on wage theft in the fast food industry. I did not comment on the FAST Act, which was a bill written and passed by the California legislature and signed by the Governor after I had already left my position in California. I was not involved in the bill in any way. In context, the remarks you cite above were in reference to wage theft and the Biden Administration's actions to prevent wage theft. They were not an endorsement of any particular piece of state legislation.*

2. You have been an outspoken supporter of the PRO Act, correct? In July 2021, a hotel owner from your state of California [testified](#) before this committee and stated: "With both respect and candor, let me say this: the PRO Act is the most anti-small business bill in the history of Congress. With the stroke of a pen upon enactment, the PRO Act's joint employer and independent contractor provisions alone would steal the American Dream of business ownership from countless entrepreneurs." Deputy Secretary Su, you support a bill to legislate away the franchise model, the freelance profession, the gig worker community, and many more.

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- a. What do you say to the millions of Americans concerned about the future of their livelihoods as the Senate considers legislation - supported by you and President Biden - that could ruin their businesses and incomes?

*President Biden supports the PRO Act and so do I. This legislation strengthens collective bargaining rights, ensuring that employees have the freedom to join a union.*

3. The AB5 law’s independent contractor test is identical to the PRO Act’s test, in that both of these regimes create a so-called “A-B-C” test for determining whether an independent contractor should be considered an employee in law. The one big difference is AB5 features over 100 industry exemptions. Most architects, accountants, veterinarians, physicians, surgeons, dentists, insurance brokers, lawyers, engineers, direct sales salespeople and many more careers are exempt from AB5’s coverage, which is effectively an admission by the authors of AB5 that the ABC test does not work for dozens of professions. But the PRO Act has no exemptions at all, and if enacted, the PRO Act would demote all of these professions from principals to employees in all of our states.
- a. Deputy Secretary Su, do you support the AB5 test for independent contractor status with its numerous exemptions? Or the PRO Act’s independent contractor test that would effectively demote doctors, lawyers and dozens of other professions from entrepreneur to employee?

*The California legislature, of which I have never been a part, enacted AB 5 in response to a California Supreme Court ruling to address misclassification under California law – not federal law.*

*The PRO Act’s employee definition—if passed by Congress—deals with the National Labor Relations Act, which is enforced by the National Labor Relations Board, not by the Department of Labor.*

4. In 2014, you publicly agreed with a former Department of Labor nominee who was rejected by the Senate, David Weil, and [stated](#) that regulators “can’t fine people into compliance” but instead should look at “entire industry structures” in a desire to dramatically overhaul workplace protections well beyond what Congress has enacted.
- a. Deputy Secretary Su, isn’t “fining people into compliance,” as you put it, and enforcing the law as written precisely the job of a law enforcement principal like the Secretary of Labor? Or do you believe the Secretary’s role is to change entire industry structures from your office here in Washington?

*I believe in separation of powers and fidelity to the law. If confirmed, I can assure you that I will enforce the laws that are passed by Congress.*

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5. The Biden Administration has the goal of being the most 'pro-worker' administration in U.S. history. Does the administration take other stakeholders' perspectives into account (i.e. private companies, trade associations, industry representatives, etc.) into account when determining labor policy? Or does the administration rely solely on the perspectives of the workforce itself?

*The DOL regularly meets with and listens to stakeholders from diverse viewpoints, including employers and employees, large and small business owners, people in urban and rural communities, and people in a wide range of industries.*

6. Have you ever visited Kansas?

*I've not had the privilege of visiting Kansas but if confirmed, I would be pleased to visit the state with you.*

7. What, in your opinion, are the biggest labor issues facing Kansas?

*Workers in Kansas, like workers across the country, are grappling with similar issues: they need to get good jobs in their communities. If confirmed, I would welcome the opportunity to hear your thoughts about the challenges facing workers in your state.*

8. What experience do you have in working with Agriculture labor?

*Throughout my career I've had the opportunity to engage with farm workers and their employers, including both small independently operated farms and large farm operations.*

9. When you were the head of the California's Labor and Workforce Development Agency and its Employment Development Dept. (EDD), did correspondence continue to have persons' security numbers on it despite security recommendations that this not be done?

*This practice occurred before I became Secretary of California's Labor and Workforce Development Agency. When I learned about it, I instructed EDD to discontinue the practice.*

10. How is it that prison inmates were able to receive so much in the way of fraudulent Unemployment Insurance payments when you were running the EDD?

*EDD was one of 7 agencies that fell under the Labor and Workforce Development Agency.*

*In the face of the unprecedented challenge the country faced from the pandemic, Congress acted with overwhelming bipartisanship to pass the CARES Act, that President Trump then signed, to create four new temporary unemployment programs to help address exponential increases in*

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*joblessness ushered in by the COVID-19 pandemic, including the Pandemic Unemployment Assistance (PUA) program that covered an entirely new population of workers who were not typically eligible for benefits under the regular UI program.*

*In light of the need to expedite benefits during the emergency, Congress also mandated different methods of verifying eligibility that increased fraud vulnerabilities. Congress required states to ease key eligibility requirements, get benefits out quickly, and relieve burdens on employers, but these changes removed traditional checks and balances that protect the UI program from fraud, waste, and abuse. For example, as initially passed, the CARES Act required states to rely on self-certification by applicants for PUA and did not permit states to require documentation to substantiate employment or self-employment or the planned commencement of employment.*

*This led to massive amounts of fraud in the PUA program and in California; 95% of the fraud in California was from the PUA program. The State Auditor found that two things were responsible for the massive fraud on the system: the unprecedented increase in claims filed and the lack of safeguards built into the PUA program as designed by Congress. The Auditor did not find that any decision I made was responsible for the increased fraud California experienced.*

*This includes my decisions regarding the actions of EDD. To keep the aging unemployment insurance system from becoming paralyzed with the amount of claims that were coming in, I waived certain certifications regarding claimants' ability to work during a time when the state was on lockdown and there was limited ability to work. The State Auditor did not attribute the increased fraud to these decisions.*

*Fraud and abuse is never acceptable, and that is why under my watch, California responded aggressively to fraud attacks by implementing new fraud prevention and detection measures. Congress allowed and the previous Administration's DOL initially required payments from PUA program to be automatically backdated for individuals, which allowed large lump sums to be paid out to fraudulent actors. As soon as I detected suspicious activity, I asked DOL for permission to stop automatic backdating and after California did so, the previous Administration's DOL instructed other states to follow. California was also among the first states to implement new identity verification systems to reduce fraud, including use of ID.me. These efforts prevented over an estimated \$125 billion in fraudulent payments.*

**Senator Casey's QFRs (D-PA)**

**Question 1**

I am concerned by the rise in child labor violations, and I was pleased to see the recent announcement from the Department on the formation of an interagency task force and related strategic initiatives. Corporations should not be making profits off the backs of children, and

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children do not belong in factories or working during hours where they should be studying, spending time with their families, or just simply being children. In response to the announcement, I sent a letter offering a few recommendations to DOL on child labor issues. Among them, I suggest there be a complete revamp of data collection and coordination initiatives across government, academia, and relevant stakeholders to better understand how and where child labor violations are happening and how to best target our efforts. The rise of subcontractors, labor brokers, and staffing agencies has allowed companies who violate child labor laws to avoid responsibility. I am following this issue closely and will continue to work on it.

*What is your Department and the Administration doing to combat the rise in child labor violations?*

*The Department takes these egregious violations of child labor laws seriously and is committed to using all tools at its disposal to prevent illegal child labor and hold employers accountable for violations. The Department investigates all child labor complaints it receives and every investigation under the Fair Labor Standards Act by the Department includes a check for compliance with child labor laws. We currently have over 600 child labor investigations underway and continue to field complaints and initiate investigations.*

*The Department is working in partnership with HHS and other federal agencies to further combat illegal child labor. These initiatives include:*

- Interagency Taskforce to Combat Child Labor Exploitation: This taskforce, which is led by the Department, is working to identify and implement interagency actions that can improve enforcement in this area, such as enhanced information sharing related to child labor enforcement. As part of this effort, the Department and HHS entered into a Memorandum of Agreement on inter-agency data sharing to enhance and maximize the well-being of children and the enforcement of federal child labor laws on March 23, 2023.*
- National Strategic Enforcement Initiative on Child Labor: As part of the initiative, the Department's Wage and Hour Division will use data-driven, worker-focused strategies to initiate investigations where child-labor violations are most likely to occur but where we are least likely to receive complaints. The Department will also use all available enforcement tools, including penalties and injunctions, and will stop the movement of goods made with child labor where appropriate.*
- Hold all Employers Accountable: The Department will hold all employers accountable to ensure child labor is removed from supply chains. This will include applying further scrutiny to companies doing business with employers using illegal child labor to increase corporate accountability for systemic abuses of child labor laws.*

*The Department recognizes that enforcement is just one aspect of the solution to the problem of child labor exploitation. As your letter notes, immigrant children are uniquely vulnerable to exploitation, and the Department is using available tools to address these vulnerabilities, including robust enforcement of anti-retaliation protections, coordination with community-based groups, and connecting exploited children and workers with avenues to report violations without*

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*fear of removal. The Department is also working closely with other agencies to develop tailored strategies to protect exploited children. Those discussions include information-sharing and enhanced outreach and education to migrant children and sponsors about restrictions on child labor and their rights under federal law. I look forward to working with you and your staff further on this issue.*

**Question 2**

Section 508 of the Rehabilitation Act of 1973 requires Federal departments and agencies to ensure that information and communication technology is accessible for people with disabilities. Over the last year, I have used my position as Chairman of the Aging Committee to examine compliance with this law, and assess the accessibility of Federal technology, including Federal websites, for people with disabilities, older adults and veterans. In December 2022, I released Unlocking the Virtual Front Door, an investigation that found troubling examples of inaccessible technology across the Federal government, and which issued 12 recommendations to improve accessibility. In February 2023, the Department of Justice (DOJ) responded to my calls for greater transparency of Section 508 compliance, releasing data that confirmed the findings of my report.

I am concerned that people with disabilities are being locked out of government services and are not given a level playing field in federal workplaces due to inaccessible technology at the Department of Labor (Labor). According to data Labor submitted to DOJ, half of the 53,798 internet webpages Labor tested are compliant with Section 508 accessibility requirements, while 31 percent of the 16,017 intranet webpages Labor tested are compliant. While a recently issued report suggests Labor is taking several steps to improve Section 508 compliance and the accessibility of its technology, the data submitted to DOJ make clear there is more work to be done.

*Given these concerns, will you commit to (1) improving Labor’s compliance with Section 508 requirements and the accessibility of technology, and (2) keep my office informed of the progress being made?*

*Yes. I take the Department’s legal obligation related to accessibility for persons with disabilities seriously and am committed to fulfilling them. I look forward to working with your office further on this matter.*

**Senator Maggie Hassan’s QFRs (D-NH)**

**Question for Acting Secretary Su**

I am proud of New Hampshire’s leadership in expanding access to paid apprenticeships.

This past fall, I was pleased to see that the Community College System of New Hampshire received a \$5.8 million grant from the Department of Labor to expand ApprenticeshipNH.

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ApprenticeshipNH uses the "Earn While You Learn" model that combines on-the-job training and classroom education to increase an apprentice's skills.

In addition, many of its programs offer postsecondary credits that students may use to achieve a more advanced degree going forward.

**If confirmed, what will you do to support the continued growth of paid apprenticeships?**

*Yes. I share in President Biden's commitment to expanding Registered Apprenticeships while ensuring that these apprenticeship opportunities are available to all Americans. If confirmed, I intend to build upon current efforts by the Department to expand quality Registered Apprenticeships and to create career pathways through youth apprenticeships and pre-apprenticeships, particularly in those industries and sectors outside of the skilled trades where apprenticeship programs are not currently widespread, as well as among underrepresented populations such as communities of color, women, and individuals with disabilities, thereby leading to a more diverse, equitable, inclusive, and accessible National Apprenticeship System.*

*If confirmed, I will do everything I can to ensure that our nation's workers are ready for the jobs of the future. I am incredibly proud of the work I've led with Secretary Walsh at the Department to expand workforce training and apprenticeship opportunities, including in teaching, in trucking, in cybersecurity and in nursing. And I'm proud of our work to help more youth find a path into the trades and into other occupations that don't require a four-year degree.*

*Together with Secretary Walsh, I have led the DOL in expanding, diversifying, and modernized Registered Apprenticeship to support the success of workers, businesses, and communities, including by working with stakeholders to create more than 4,600 new Registered Apprenticeship programs with 11,000 new employers partnering on or adopting Registered Apprenticeship.*

*With two trillion dollars in federal infrastructure funding becoming available, it's critically important that people get the skills they need to access jobs in sectors of the economy that will be spurred by these investments, including wind, solar, electric vehicles, and semiconductor manufacturing. As President Biden has said consistently since his time as vice-president and as a Senator, we need to support partnerships between all the players who care about training -- community colleges; businesses; unions; state, local, and tribal governments; nonprofits; universities; and high schools. I firmly believe this as well. These kinds of partnerships can identify in-demand knowledge and skills in a community and develop or modernize training programs that lead to relevant, high-demand industry-recognized credentials.*

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**Senator Kaine's QFRs (D-VA)**

Question #1:

As you know, the McNamara-O'Hara Service Contract Act (SCA) requires contractors and subcontractors on prime contracts exceeding \$2,500 to pay their employees prevailing wages based on DOL's wage determination. However, prevailing wages are often not competitive with large employer big-box stores, which tend to have starting wages at \$17 or more an hour in areas like Northern Virginia. Whereas, the wage determination for contracts subject to SCA is \$16.20/hour for 2023. Some in Northern Virginia fear that they will not be able to win contracts for federal jobs if they offer higher wages for their workers. **If confirmed, would you be willing to work with stakeholders to address this along with other SCA issues?**

*Yes. Prevailing wage laws were enacted to ensure that the Federal government's contracting activities did not drive down wages in a local community. I strongly believe that workers, their families, law abiding contractors, and taxpayers all benefit from prevailing wage laws. I also believe that all federal contractors should follow all rules and regulations. If confirmed, I will work to make sure that prevailing wage requirements are enforced to protect workers and taxpayers. I look forward to working further with your office on this issue.*

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**Senator Bill Cassidy (R-LA) - Addendum**

*These questions were received on April 24, 2023 with a deadline of April 25, 2023 via a letter from Senator Cassidy. Although they were not submitted in time with the rest of the QFR questions we received from the Committee, we have included the questions and our responses here in order to provide a response by the April 25, 2023 deadline.*

1. What do you believe DOL's role is in preventing child labor violations?
2. When did you become aware that migrant children were being exploited to work in hazardous conditions?
3. As Deputy Secretary, what steps have you taken over the last two years to notify the White House and HHS of the child labor law violations DOL has discovered?
4. Do you agree with the White House's assertion that they "had not known of the increase in child labor" until The New York Times published their investigation in February 2023? If not, what steps did you, Marty Walsh, and the DOL at large take to alert the White House of the increase in child labor violations?
5. If confirmed as Secretary of Labor, what actions will you take to improve DOL's communication with HHS, the White House, and other relevant federal agencies in order to ensure that reports of child labor law violations are not ignored or missed in the future?
6. As part of its recently announced interagency task force, please explain how DOL will address child labor violations. In addition, please provide:
  - An overview of the types of data DOL will collect and use to prevent the exploitation of child labor.
  - Will this initiative require the collection of any data that DOL does not already collect? If so, what types of data does DOL not collect?
  - How will this data be used to address child labor violations?
  - Will DOL commit to making public foreign-born work injuries for children and adults? If not, why not?
7. What steps are you taking to increase DOL's enforcement activities around violations of child labor law? Please describe in detail.

*As we have reported in our numerous Congressional briefings and letters on this issue, the Department takes these violations seriously and is committed to using all tools at its disposal to prevent illegal child labor and hold employers accountable for violations. The Department is charged with enforcing the child labor protections in the Fair Labor Standards Act (FLSA) and, through its Wage and Hour Division (WHD), vigorously investigates all child labor complaints it receives. In addition, every WHD investigation under the FLSA includes a check for compliance with child labor laws.*

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*Since 2018, the Department has seen a 69 percent increase in children being illegally employed by companies.<sup>1</sup> We currently have over 600 child labor investigations underway and continue to field complaints and initiate investigations. In the last fiscal year, the Department found 835 companies it investigated had employed children in violation of labor laws. As your letter notes, we also recently announced the resolution of one of the largest child labor cases in the Department's history against Packers Sanitation Services, Inc. LTD.*

*On February 27, 2023, the Department and HHS announced a range of initiatives to strengthen enforcement and coordination in cases of exploitative child labor.<sup>2</sup> The Department is working in partnership with HHS and other federal agencies to further combat illegal child labor. These include:*

- **Interagency Taskforce to Combat Child Labor Exploitation:** *This taskforce, which is led by the Department, is working to identify and implement interagency actions that can improve enforcement in this area, such as enhanced information sharing related to child labor enforcement. As part of this effort, the Department and HHS entered into a Memorandum of Agreement on inter-agency data sharing to enhance and maximize the well-being of children and the enforcement of federal child labor laws on March 23, 2023.<sup>3</sup>*
- **National Strategic Enforcement Initiative on Child Labor:** *As part of the initiative, the Department's Wage and Hour Division will use data-driven, worker-focused strategies to initiate investigations where child-labor violations are most likely to occur but where we are least likely to receive complaints. The Department will also use all available enforcement tools, including penalties and injunctions, and will stop the movement of goods made with child labor where appropriate.*
- **Hold all Employers Accountable:** *The Department will hold all employers accountable to ensure child labor is removed from supply chains. This will include applying further scrutiny to companies doing business with employers using illegal child labor to increase corporate accountability for systemic abuses of child labor laws.*

*The Department recognizes that enforcement is just one aspect of the solution to the problem of child labor exploitation. Immigrant children are uniquely vulnerable to exploitation, and the Department is using available tools to address these vulnerabilities, including robust enforcement of anti-retaliation protections, coordination with community-based groups, and connecting exploited children and workers with avenues to report violations without fear of removal. The Department is also working closely with other agencies to develop tailored strategies to protect exploited children. Those discussions include information-sharing and enhanced outreach and education to migrant children and sponsors about restrictions on child labor and their rights under federal law.*

*Congress could also take steps to improve child labor law enforcement. Options include raising the maximum civil monetary penalties for child labor violations and increasing funding for the Department's enforcement agencies. We welcome additional consultation on legislative action and are available to work with you and your staffs on technical assistance for proposals.*

[Whereupon, at 12:12 p.m., the hearing was adjourned.]

