UNLEASHING AMERICA'S OPPORTUNITIES FOR HIRING AND EMPLOYMENT

HEARING

BEFORE THE

COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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UNLEASHING AMERICA'S OPPORTUNITIES FOR HIRING AND EMPLOYMENT

Tuesday, March 28, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC.

The Committee met, pursuant to notice, at 10:28 a.m., 2175 House Rayburn Building, Hon. Virginia Foxx, (Chairwoman of the Committee) presiding.

Present: Representatives Foxx, Walberg, Grothman, Allen, Banks, Comer, Smucker, Owens, Good, Miller, Kiley, Bean, Burlison, Williams, Houchin, Scott, Courtney, Sablan, Bonamici, Adams, DeSaulnier, Jayapal, Wild, McBath, Hayes, Stevens, Leger Fernández, Manning and Mrvan.

Staff present: Cyrus Artz, Staff Director; Nick Barley, Deputy Communications Director; Mindy Barry, Chief Counsel; Jackson Berryman, Speechwriter; Michael Davis, Legislative Assistant; Tyler Dufrene, Research Assistant; Cate Dillon, Director of Operations; Daniel Fuenzalida, Staff Assistant; Sheila Havenner, Director of Information Technology; Taylor Hittle, Professional Staff Member; Alex Knorr, Staff Assistant; Trey Kovacs, Professional Staff Member; Andrew Kuzy, Press Assistant; Marek Laco, Professional Staff Member; John Martin, Deputy Director of Workforce Policy/Counsel; Hannah Matesic, Director of Member Services and Coalitions; Audra McGeorge, Communications Director; Ben Ridder, Professional Staff Member; Kelly Tyroler, Professional Staff Member; Seth Waugh, Director of Workforce Policy; Joe Wheeler, Professional Staff Member; Kevin McDermott, Minority Senior Labor Policy Advisor; Jessica Schieder, Minority Economic Policy Advisor; Scott Estrada, Minority Professional Staff; Kyle deCant, Minority Labor Policy Counsel; Bob Shull, Minority Labor Policy Staff; Ilana Brunner, Minority General Counsel; Dhrtvan Sherman, Minority Staff Assistant; Stephanie Lalle, Minority Communications Director; Kota Mizutani, Minority Deputy Communication Director; Sam Varie, Minority Press Secretary.

Chairwoman FOXX. The Committee on Education and the Workforce will come to order. I note that a quorum is present. Without objection, the Chair is authorized to call a recess at any time. Good morning, everyone, and welcome to today's hearing.

Our room this session seems to be plagued by all kinds of problems. Our IT area was flooded, and so that's why we have temporary mics, temporary cameras, and so today the air-conditioning is not working, so we have some real issues, and I'll just ask everybody to bear with us on things we have absolutely no control over.

One of the most troubling consequences of pandemic related closers and the left's failing policies, the decline of America's workforce. The Democrats controlled the House for three years of the pandemic and its aftermath. They oversaw the greatest spending spree by any nation in world history.

When inevitable economic hardship followed, the American people had questions that deserved answers from the Committee on Education and the Workforce. What did the Democrat's oversight look like? In the 116th and 117th Congresses, Committee Democrats did not once conduct oversight of their economic shutdowns or the implications for our workforce.

Did Democrats hold a hearing on inflation? The single greatest concern for the plurality of Americans? Never. How many times did Committee Democrats hold a hearing to address directly the nationwide supply chain disruption? Zero times. In response to the single, sharpest spike of unemployment in the 21st Century the Democrat controlled Committee chose to hold hearings in support of closing Main Street small businesses, padding the pockets of big labor union bosses, and advocating for increased Federal spending and pandemic giveaways.

In fact, Democrats have doubled down on attempts to eliminate opportunities for workers to choose how, when and where they work. The consequences of this job killing agenda are preventing small business owners and entrepreneurs from putting more Americans back to work.

Instead of making the workforce system more responsive to worker and employer needs, Democrats push one size fits all registered apprenticeships while shuttering the industry recognized apprenticeship program. According to a National Association of Manufacturers survey, more than 62 percent of manufacturing leaders thought the U.S. economy would officially enter a recession in 2023.

In February, the National Federation of Independent Business, NFIB, reported that expectations for better business conditions remained low. I, for one, am not shocked that the American public lost faith in Democrats to handle the economy. You'll hear arguments today from the other side that downplays the seriousness of the challenges we face and continue to face. Charitably put, they are inaccurate.

To dispel just a few. While the unemployment figure is low, it doesn't paint a full picture. Millions exited the workforce during the pandemic. The economy has not recovered, and the workforce participation still lags behind pre-pandemic rates. All the while too many businesses are struggling to fill the nearly 11 million open positions.

NFIB reported that inflation is the single most important problem facing its members. In June, inflation reached 9.1 percent, the highest level since December 1981. More recently, the inflation rate has slowed and is now closer to the conditions experienced in the summer of 1982 and the winter of 1990, but these times are better known for their economic downturns.

In short, Democrats have created conditions for future unemployment through massive spending and increased regulations. Forcibly increasing union participation will not give this country a stronger workforce. Washington should not be in the business of picking winners and losers in our economy.

Whether it be through overturning every right-to-work law in the country, eliminating independent contracting, jeopardizing franchise businesses, or rewarding union bosses with unchecked power by acquiescing to every item on their wish list. House Republicans were given a mandate by the American people to offer an alternative vision for our economy.

We'll put forward solutions to reduce unnecessary regulations, control spending, offer more Americans opportunities for skills development, and remove impediments to hiring. Skills-based education is one pathway to prepare students for the job market. By increasing work-based learning opportunities and extending the Pell Grant to short-term high-quality programs. We can help workers get the skills they need for lifelong success.

I look forward to hearing from our witnesses today. With that, I yield to Ranking Member Scott for his opening remarks.

[The statement of Chairwoman Foxx follows:]

STATEMENT OF HON. VIRGINIA FOXX, CHAIRWOMAN, COMMITTEE ON EDUCATION AND THE WORKFORCE

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The Democrats controlled the House for 3 years of the pandemic and its aftermath. They oversaw the greatest spending spree by any nation in world history. When inevitable economic hardship followed, the American people had questions that deserved answers from the Committee on Education and the Workforce.

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In response to the single sharpest spike of unemployment in the 21st century, the Democrat-controlled Committee chose to hold hearings in support of closing Main Street small businesses, padding the pockets of Big Labor union bosses, and advocating for increased Federal spending in pandemic giveaways. In fact, Democrats have doubled down on attempts to eliminate opportunities for workers to choose when, where, and how they work. The consequences of this job-killing agenda are preventing small business owners and entrepreneurs from putting more Americans back to work. Instead of making the workforce system more responsive to worker and employer needs, Democrats pushed one-size-fits-all Registered Apprenticeships while shuttering the Industry-Recognized Apprenticeship Program.

According to a National Association of Manufacturers survey, more than 62 percent of manufacturing leaders thought the U.S. economy would officially enter a recession in 2023. In February, the National Federation of Independent Business (NFIB) reported that expectations for better business conditions remain low. I, for one, am not shocked that the American public lost faith in Democrats to handle the economy.

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Forcefully increasing union participation will not give this country a stronger workforce. Washington should not be in the business of picking winners and losers in our economy-whether it be through overturning every right-to-work law in the country, eliminating independent contracting, jeopardizing franchise businesses, or rewarding union bosses with unchecked power by acquiescing to every item on their wish list.

House Republicans were given a mandate by the American people to offer an alternative vision for our economy. We will put forward solutions to reduce unnecessary regulations, control spending, offer more Americans opportunities for skills development, and remove impediments to hiring. Skills-based education is one pathway to prepare students for the job market. By increasing work-based learning opportunities and extending the Pell Grant to short-term, high-quality programs, we can help workers get the skills they need for lifelong success.

Mr. SCOTT. Thank you. Thank you, Dr. Foxx, and good morning. I thought it would be helpful to show a chart of the economy that was just described as disparaged. But this chart behind me shows the average number of jobs per month in the last five Presidential administrations, and we can see the Biden administration's 495,000 jobs significantly higher than any administration in the last 30 years, certainly higher than the two Republican administrations in the last 30 years, but that's the economy that was just described.

When President Biden took office, he inherited an economy that was thrown into disarray by the previous administration's mishandling of the COVID–19 pandemic. However, thanks to investments made by the Biden Harris administration, and congressional Democrats the economy has grown from the bottom up, and the middle out.

Almost 3 years ago in April 2020, our Nation's unemployment rate was over 14 percent. In January 2021, the beginning of President Biden's term, the unemployment rate had fallen to 6.2 percent, and according to the most recent job reports, the unemployment rate is now approximately 3.6 percent, one of the lowest in recent, in modern history.

Additionally, the first 2 years of the Biden administration were respectively the first and second largest job growth years in American history. The economy under President Biden has added more than 12 million jobs. Economists had predicted that the jobs destroyed during the Trump administration would not be recovered until the summer of 2026.

Instead, the economy bounced back to pre-pandemic levels by June 2022, 4 years earlier than expected. Finally, President Biden's economic policies have led to a historic boom for small businesses. In fact, the first 2 years in office have been two of the greatest years for small business applications on record. This recovery did not happen by accident.

It is directly connected to the leadership of President Biden and congressional Democrats. Through several COVID–19 relief packages, Congress delivered support to help workers and their families pay their bills, stay safely on the job, and access healthcare through the American Rescue Plan, which you'll remember passed without a single Republican vote, House or Senate. Congressional Democrats saved more than 1 million retirees hard-earned pensions. Had we not acted these pensions would have failed. Workers and retirees, from truckers to bricklayers—would lose nearly everything they had worked to save, and tens of thousands of participating employers may have been forced to close or cut jobs. And the Federal Government would have ended up paying more to have the pensions fail because of safety net expenses than we spent saving the pensions.

While price increases caused by supply chain disruptions and global inflation forced many working families to stretch their dollar further, record wage increases over the past 3 years have helped make up for these increased costs and buffered families from price shocks.

Simply put, even in the face of rising interest rates, Americans are back to work, and businesses are thriving thanks to the Biden-Harris administration's economic agenda. President Biden has done all of this while delivering on his commitment to fiscal responsibility. In fact, President Biden cut the deficit by more than 1.7 trillion dollars during his first 2 years in office.

Fiscal year 2022 decline in Federal deficit was the largest one-year decline in American history, and with President Biden's track record, it is no surprise that a recent navigator poll shows that more Americans trust President Biden and congressional Democrats in handling job growth and the economy, than their colleagues.

So, when we invest in students, workers, and families, America succeeds. At a minimum we shouldn't go backward and return to the failed Republican policies that mishandled the COVID–19 pandemic, prioritize regressive tax cuts for the wealthiest Americans, and unleash harmful deregulation. Unfortunately, during the House Republicans? first few months in the majority, they've prioritized divisive legislation that does nothing to help Americans get ahead.

They also continue to use our Nation's full faith and credit as a bargaining chip to force devastating cuts in Social Security and Medicare and key Department of Labor priorities that protect our Nation's workers. By threatening to default on our Nation's debt, congressional Republicans are gambling with our fragile economic recovery in order to force through an unpopular and dangerous agenda.

Furthermore, congressional Democrats remain focused on solutions to help every American succeed in the modern economy. That's why I reintroduced the bipartisan bicameral Protecting the Right to Organize, or the PRO Act alongside 200 Members of the House and Senate. Unions are essential for building a strong middle class and improving the lives of our workers and families.

The PRO Act will ensure that every worker can reap benefits of a union, which means bigger paychecks, better benefits, and safer workplaces. I'm also committed to improving our workforce development programs by reauthorizing the National Apprenticeship Act and the Workforce Innovation and Opportunity Act, and expanding the Pell Grant Program for short-term programs by which I believe we have good bipartisan support on that legislation, as well as legislation, which is bicameral and bipartisan called the Transformation to Competitive Integrated Employment Act because strong labor standards open a pathway to opportunity for all workers, but only if those standards actually apply to all workers.

Taken together these priorities will help prepare workers for the modern economy and ensure employers have access to qualified candidates. So, I'm hopeful that all of our colleagues will join us in rejecting the failed policies of the past, and putting people over politics and delivering solutions that actually help workers and employers succeed. Thank you Madam Chair and I yield back

[The statement of Ranking Member Scott follows:]

STATEMENT OF HON. ROBERT C. "BOBBY" SCOTT, RANKING MEMBER, COMMITTEE ON EDUCATION AND THE WORKFORCE

Thank you, Dr. Foxx and good morning.

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Taken together, these priorities will help prepare workers for the modern economy and ensure employers have access to qualified candidates.

So, I am hopeful that all of our colleagues will join us in rejecting failed policies of the past, putting people over politics, and delivering solutions that actually help workers and employers succeed.

Chairwoman FOXX. I thank the Ranking Member for his comments. Pursuant to Committee Rule 8(c) all Members who wish to insert written statements into the record may do so by submitting them to the Committee Clerk electronically, in Microsoft Word format by 5 p.m., 14 days after the date of this hearing, which is April 11, 2023.

And without objection, the hearing record will remain open for 14 days to allow such statements and other extraneous material referenced in the hearing to be submitted for the official hearing record.

I now turn to the introduction of our distinguished witnesses. Mr. Chris Spear is President and CEO of the American Trucking Association, ATA. Mr. Spear has worked in the transportation energy labor and technology sector, and he previously served as Assistant Secretary of Labor for policy and as professional staff in the U.S. Senate.

Mr. Jerry Akers is a small business owner and franchisee from Palo, Iowa. With his wife and two daughters, he operates 39 franchise locations in Iowa, Nebraska, and employs 220 workers. Mr. Akers is testifying on behalf of the International Franchise Association.

Dr. Heidi Shierholz is President of the Economic Policy Institute, EPI. Dr. Shierholz served as the Chief Economist at the U.S. Department of Labor during the Obama administration.

Mr. Stephen Moore is a distinguished Fellow in economics at the Heritage Foundation. Mr. Moore focuses on advancing public policies that increase the rate of economic growth. He works on budget, fiscal, and monetary policy.

We thank all the witnesses for being here today and look forward to your testimony. I'd like to remind the witnesses that we've read your written statements, and they will appear in full in the hearing record. Pursuant to Committee Rule 8(d) and Committee practice I ask that you each limit your oral presentations to a five-minute summary of your written statement.

I also would like to remind the witnesses to be aware of their responsibility to provide accurate information to the Committee. Before you begin your testimony, please remember to press the button on the microphones in front of you, so it will turn on and the Members can hear you. And I'll ask you to hold those mics fairly close as I said we're dealing with temporary things here and trying to make do. So, we want to be able to hear what you have to say.

As you begin to speak the light in front of you will turn green. After four minutes the light will turn yellow to signal that you have one minute remaining. When the light turns red your five minutes have expired, and we ask that you please wrap up. Also, as a long-standing Committee practice, we'll let the entire panel make their presentations before we move to Member questions.

When answering a question please remember once again to turn your microphone on and then off once finished. I first recognize Mr. Spear for five minutes.

STATEMENT OF CHRIS SPEAR, PRESIDENT AND CEO OF THE AMERICAN TRUCKING ASSOCIATIONS

Mr. SPEAR. Madame Chair Foxx, Ranking Member Scott, and Members of the Committee, thank you for the opportunity to testify today on behalf of the ATA. For 90 years, the ATA has represented an industry that today employs nearly 8 million of the hardest working men and women in America. That's 1 in 18 jobs where one of the top five jobs in 29 states is trucking related.

They're husbands, they're wives, they're moms, they're dads, they're family members. And they're behind the wheel of every truck you see today. Throughout COVID, the global pandemic, our drivers continued to climb into their cabs delivering not milk, eggs, toilet paper, and fuel, but PPE, test kits and life-saving medications, including the vaccine itself.

Our workforce shouldered this responsibility with the fortitude that being essential demands. And America was grateful. With billboards and corn fields to banners hanging off overpasses, all thanking a trucker. Our members, large, medium, and small businesses have presence in every State and congressional District in the country.

More than 80 percent of the U.S. communities rely exclusively on trucking to meet their daily needs. Trucks now move more than 70 percent of our country's domestic freight as well as 73 percent of USMCA freight making trade and trucking synonymous.

Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today. For that to happen, we must continue to put safety and our workforce first. Today the trucking industry invests more than 10 billion dollars annually in safety, education, and employee development.

And as innovation continues to shape our industry, the experience needed to operate and service our equipment will further benefit our workforce, both in terms of skill and competition. This is a good story, one we at ATA like sharing. Our workforce is committed to making a difference. To that end, our written testimony submits four recommendations for your consideration.

First, we need to shore up the growing shortage of talent. Most notably 78,000 drivers and 41,000 technicians. Drivers on average earn $70,000.00 plus full benefits without a college degree and the debt that comes with it. That's up 19 percent over the last 5 years, higher than any other mode.

We've launched initiatives to hire more veterans and exiting military personnel, more minorities, especially from urban communities with higher unemployment, and more women, a goal made possible by IJA moneys being used for new, safe and secure truck parking, and we're capitalizing on IIJ education development and technology for 18-to 20-year-olds that cross State lines, far exceeding all existing State requirements.

Second, we need to end the unfounded assault on the nine decade-old independent contractor model jeopardizing not only the jobs and lives of 350,000 truck drivers throughout the country, but the millions of other American workers who willingly choose this professional path.

Third, we need to untangle Federal and State regulations, from licensing and credentialing to State legalization of recreational marijuana and combatting opioid abuse. And last, we need to double down on our workforce development. It's what gives every employee job security and growth opportunities. A post-COVID WIOA makeover would ensure our industry is defined as essential, skilled, and in demand, and that local workforce boards resource trucking accordingly.

And what gets us from here to there unites us all, not only elevating our economy, but every employee involved. Addressing these four recommendations would allow our workforce to safely and responsibly meet consumer and economic demands over the next decade. Do that, and you'll make a difference too. I thank you in advance for your consideration, and I yield back.

[The prepared statement of Mr. Spear follows:]

PREPARED STATEMENT OF CHRIS SPEAR

Statement of

Chris Spear
President and CEO of the
American Trucking Associations

Before the

Committee on Education and the Workforce
United States House of Representatives

Hearing on

"Unleashing America's Opportunities for Hiring and Employment"

March 28, 2023

INTRODUCTION

Chairwoman Foxx, Ranking Member Scott, and Members of the Committee, I appreciate the opportunity to testify before you today on behalf of the American Trucking Associations (ATA).[1] I care deeply about this Committee's efforts to advance opportunity for working Americans and the businesses that depend on them. My testimony today is informed, in part, by the privilege I had to serve as the Assistant Secretary for Policy at the U.S. Department of Labor (USDOL).

ATA is a 90-year-old federation and the largest national trade organization representing the 7.65 million men and women working in trucking-related jobs. ATA is a fifty-state federation that encompasses 34,000 motor carriers as well as their corresponding suppliers. ATA represents every sector of the industry, from Less-than-Truckload to Truckload, agriculture and livestock transporters to auto haulers and movers, and large motor carriers to mom-and-pop one-truck operations.

More than 80% of U.S. communities rely *exclusively* on trucking to meet their freight transportation needs, and trucking currently moves more than 70% of the nation's annual freight tonnage.[2] Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today, and trucks will continue to deliver the vast majority of goods to American communities.[3] Smart, forward-leaning investments in our nation's transportation infrastructure and concerted efforts to bolster the trucking workforce will help the industry meet these growing demands and ensure the United States retains its position and leverage as the world's leading economy.

The trucking workforce has always been essential, but the COVID-19 global pandemic greatly underscored that fact. Essential workers, like truck drivers, kept America moving forward even as the nation hunkered down to ensure that communities across the country had access to critical goods like food, medicine, fuel, and toilet paper. The trucking industry shouldered this incredible responsibility with the fortitude that being 'essential' demands, and while grappling with devastating driver and technician shortages. Our member companies have overcome tremendous challenges since the pandemic, and they will continue to adjust as international and domestic supply chains recalibrate in the wake of the pandemic and the evolving geopolitical landscape.

To remain the world's leading economy, the United States must have the best infrastructure, a capable workforce, and a resilient transportation network that can withstand supply chain pressures. Having ready and able workers is of limited value if we do not have the infrastructure to support them and enable their productivity. Trucking is the dynamic linchpin of the U.S. economy, but trucking can only be as efficient as the roads and bridges upon which the industry operates. That is why ATA applauded enactment of the historic *Infrastructure Investment and Jobs Act* (IIJA) in 2021. The IIJA represents the largest investment in our nation's infrastructure and competitiveness in nearly a century, and we remain optimistic that the bill will create the conditions necessary for long-term prosperity and growth. Like infrastructure, the vitality of the trucking workforce and the health of our economy are bipartisan issues that should inspire bipartisan solutions.

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[1] The American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight.
[2] *U.S. Census Bureau Commodity Flow Survey*, U.S. Census Bureau, 2017.
[3] *Freight Transportation Forecast 2020 to 2031*, American Trucking Associations, 2020.

Looking ahead, I am optimistic about the prospects for economic growth and advancement for our workforce. But there are significant risks against which we must guard while taking full advantage of the opportunities before us. Do this, and our economy prospers and lifts the workers who make it all possible.

This Congress, the Committee on Education and the Workforce has the opportunity to fashion solutions that will protect and enhance the American workforce. To that end, we encourage you to consider the following recommendations:
(1) Address the Shortage of Drivers and Technicians, and Expand the Trucking Workforce;
(2) Protect Independent Contractors and Support All Pathways to the American Dream;
(3) Reject Bad Policies that Threaten the Safety, Stability, and Sustainability of the Supply Chain; and
(4) Update the *Workforce Innovation and Opportunity Act* (WIOA).
All of these important policy recommendations are addressed in more detail in my testimony below and, if carried out, would have a direct and meaningful impact on the trucking industry, the supply chain, the economy, and the American public.

As you know, our industry dutifully answered the nation's call during the COVID-19 pandemic because it was the right thing to do. We now call on Congress, in that same spirit, to embrace and address our nation's workforce needs. America's trucking industry stands ready to support and work hand-in-hand with you in that effort.

We commend you for holding this important hearing today, and for your continuing efforts to address the workforce challenges that impact the trucking industry and other businesses across America that rely on the safe and efficient movement of our nation's goods, as well as the millions of American workers and consumers.

Address the Shortage of Drivers and Technicians, and Expand the Trucking Workforce

The trucking industry, which serves as the backbone of our nation's economy and supply chain, continues to face an alarming driver shortage. In 2022, the shortage of qualified drivers reached a near-record high of 78,000.[4] This figure is expected to increase to 160,000 by 2031. Furthermore, over the next decade, the industry will need to hire roughly 1.2 million new drivers to keep pace with growing demand and to replace an aging workforce.[5]

Similarly, there is a diesel technician shortage in our industry. According to data from the TechForce Foundation, an estimated 41,000 additional diesel technicians were needed in 2022, including new positions for additional work, unfilled prior openings, and replacement of those leaving the position.[6] This shortage does not include collision repair techs, tire techs, etc. who are also in demand for the industry. Long term, without additional skilled technicians to perform both regular and acute maintenance of trucks, our vehicles will be less safe and fuel efficient—and so will your automobile.

[4] *ATA Driver Shortage Update 2022*. American Trucking Associations, October 25, 2022. Available online at: https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_Driver_Shortage_Report_2022_Executive_Summary.October22.pdf (accessed March 1, 2023).
[5] *Ibid*.
[6] ATA works with TechForce to track the technicians needs of the industry. TechForce's report on national technician needs is available upon request. The Committee can contact them through their website: https://techforce.org/.

The driver and technician shortages are the result of many factors. Like many other industries, trucking is contending with ongoing impacts of the COVID-19 pandemic that continue to exacerbate the industry's already-dire labor constraints. The pandemic prompted a decrease in labor force participation coupled with temporary closures of State Driver Licensing Agencies (SDLAs) and truck driver schools, crippling the already-fragile pipeline of new drivers entering the trucking industry. Similarly, the mentoring and training of new technicians was limited during the global health crisis. Recovering from the pandemic's impact on the trucking industry workforce will take time. That said, these shortages are a looming threat that, if left unaddressed, could destabilize the continuity of trucking operations to the detriment of every American.

As we seek to expand the trucking industry workforce, we cannot sacrifice safety. Safety is the heart of the trucking industry, shaping our core values and decision-making. And education is the bedrock of safety. We must ensure that education is accessible and affordable so that those seeking to enter our workforce can develop the skills, knowledge, and attitudes necessary to do their jobs safely. We will accept nothing less and know that you share our view.

Education is also the bedrock upon which great careers with family-sustaining wages and benefits are built. Whether that education comes from an apprenticeship program, learning received at a community college or four-year college, employer-provided programs, military service, an individual's self-study and experience, or elsewhere, we must ensure the ability of individuals to obtain the education they need to start and grow their careers.

Given the severity of the labor shortages and the overwhelming evidence that they will continue to grow in tandem with freight demand, we encourage Congress to explore initiatives that will expand the pool of qualified drivers and technicians and reduce backlogs in their development. The shortages will become more acute unless Congress and regulators modernize requirements that govern who can drive in interstate commerce and also make targeted investments in programs to attract a new, diverse generation of drivers, technicians, and other supply chain workers to the transportation industry.

As a highly regulated industry, we need the help of this Committee, Congress, and the Administration to help us grow our workforce. The trucking industry offers fulfilling careers with family-sustaining salaries and quality benefits without the debt that often accompanies a college degree. The vast majority of diesel technicians make $50,000-$80,000 per year in base salary plus bonuses.[7] And, contrary to ill-informed assertions to the contrary, drivers also earn family-sustaining, middle class wages. According to ATA's 2021 industry survey,[8] the median pay for a truckload driver is $69,687 per year, not including benefits. This represents an 18% increase from 2019.[9] However, obsolete regulatory barriers prevent the trucking industry from offering these lucrative opportunities to recent high school graduates interested in pursuing a driving career in trucking.

In addition to increasing base salaries to attract and retain drivers, many fleets offer generous signing bonuses and expanded benefits packages. We are excited to welcome more individuals into the trucking industry, but we need Congress' help to open career pathways currently closed to qualified individuals due to outdated regulatory barriers. One such barrier is the general prohibition on 18-to-20-year-olds

[7] *The State of Diesel Mechanics*, Randall Reilly/Shell Lubricant Solutions, 2022, at 12 (copy available upon request from https://www.randallreilly.com/).
[8] *2022 ATA Driver Compensation Study Executive Summary*. American Trucking Associations, June 30, 2022. Available online at: https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_2022_Driver_Compensation_Study_-_Press_Executive_Summary.pdf (accessed March 1, 2023).
[9] *Ibid.*

driving trucks in interstate commerce, even though these same individuals are allowed to obtain Commercial Driver's Licenses (CDLs), drive in 49 States and the District of Columbia, and operate heavy duty vehicles in all regions of the world while serving in our nation's military.

We also need your help to promote the opportunities for technicians in our industry through outreach and support for their development via our technician apprenticeship program.

Safe Driver Apprenticeship Pilot Program

ATA strongly supported the Safe Driver Apprenticeship Pilot Program (SDAP) for 18-to-20-year-old drivers created by Section 23022 of the IIJA, and we are grateful for the inclusion of this carefully crafted, common-sense bipartisan compromise in the landmark legislation. The SDAP allows 18-to-20-year-old drivers to be trained as professional truck drivers and drive in interstate commerce after 400 hours of additional education on top of receiving their CDL, much like they can already do in intrastate commerce in 49 States plus the District of Columbia with no additional hours of education. Through this pilot program, the federal government will be able to collect data that proves what the States, the District of Columbia, and the United States military already know—these individuals can be trained to operate safely in interstate commerce, just as they do in intrastate commerce and war zones.

We are enthusiastic about the SDAP and want it to be successful. Sadly, the program's rollout has been frustratingly slow, and the U.S. Department of Transportation (USDOT) added additional requirements to those included in the law. For example, to participate in the SDAP, motor carriers must be part of a USDOL-approved Registered Apprenticeship Program (RAP) and utilize technology beyond what is statutorily required. Some entities that are not in USDOL-approved RAPs, which were not required by Congress, have had their applications denied by USDOT, and others have simply declined to apply. Working with USDOL, ATA has fulfilled the standards to become a RAP sponsor to help our members become eligible to participate in SDAP, but not every trucking company is an ATA member or wants to be in a large apprenticeship program.

It is worth noting the additional technology requirement regulators have unilaterally imposed on the SDAP not only goes beyond what Congress negotiated but was imposed almost eight months after the enactment of the IIJA and only 14 days before the application process began.[10] This costly, unexpected, last-minute equipment mandate prompted several motor carriers to decline participation in the program altogether. ATA urges the U.S. Department of Transportation to implement the program as Congress prescribed without these additional requirements to ensure participation in the pilot program and data that reflects activity are consistent with current industry standards. Recent SDAP enrollment information provided to Congress shows that these additional requirements are discouraging participation in the program.

The SDAP is critical to ATA's workforce development efforts because the data it generates will inform reconsideration of the regulatory prohibition on safe and qualified young professional drivers operating in interstate commerce. Given the potential of this program to open career pathways for a new generation and address a critical supply chain challenge facing our nation, we urge Congress to exercise

[10] The *Infrastructure Investment and Jobs Act*, Public Law 117-58, was signed into law on November 15, 2021. The additional equipment requirement of an in-cab, inward-facing camera was first announced in a July 2022 Federal Register notice. Agency Information Collection Activities; Renewal of an Approved Information Collection: Safe Driver Apprenticeship Pilot Program, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 87 FR 41,164 (July 11, 2022).

rigorous oversight of the implementation and operation of the pilot program. Should the data support it, we also ask you to ultimately work to remove this outdated regulatory barrier to address the driver shortage.

Registered Apprenticeship Programs

In March of last year, ATA was formally recognized by the USDOL as a registered apprenticeship program sponsor for heavy truck drivers. We also have been approved as a sponsor of a mechanic/technician RAP. This designation provides ATA member companies the option to offer registered apprenticeships to job applicants. A number of our members have also been approved for their own proprietary apprenticeship programs, joining others who previously joined the registered apprenticeship system to recruit military veterans.

These apprenticeship programs are a significant step in the right direction to help address the industry's driver and technician shortages. The apprenticeship model has stood the test of time and provides a way for individuals to obtain good-paying jobs that enable them to support their families without taking on large student loans. Apprenticeships also give industries such as ours the opportunity to cultivate skilled workers who are equipped to meet the needs of our modern economy. When properly integrated with other aspects of the federal, state, and local workforce development system, apprenticeship programs can be one piece of the solution to the trucking industry's workforce challenges.

For technicians, the ATA registered apprenticeship has a detailed curriculum developed in partnership with the Institute for Automotive Service Excellence (ASE) Education Foundation. The program is currently being piloted in Arkansas, but we expect to see growth and a return on investment in terms of improved safety and efficiency for fleets as it expands. As trucks become more automated and move towards new fueling technologies like hydrogen or electric batteries, this program will ensure that ATA members have the resources and the manpower to adapt and support the supply chain. ATA set up an apprenticeship program for technicians and created the curriculum because of a critical need—many mechanical programs at governmental entities like community colleges or even vocational schools are not keeping pace with industry needs. In many cases, for example, they are still educating enrollees for diesel overhauls despite changes in the industry that make such work rare.

Despite our sponsorship of RAPs and appreciation of USDOL's support and investment in RAPs, the program may not be for every employer or profession.[11] So, we are also pursuing other efforts that are critical to ensuring the trucking industry has the workforce it needs to keep America moving.

Credentialing and Licensing

Licensing and credentialing procedures should be streamlined, accessible, and affordable so that truck drivers can obtain the documentation they need to do their jobs without navigating needless bureaucracy. Given the critical need for truck drivers in support of the U.S. supply chain on which our economy depends, we urge this Committee to consider how bureaucracy serves as a barrier to entry for

[11] As noted above, USDOT's requirement for being part of a USDOL RAP has substantially delayed participation in the SDAP, which we warned about when USDOT first added the requirement. Outside the construction industry, very few employers have experience with the registered apprenticeship program nor willingness to have federal or state governmental oversight of their workforce development. Thus, the added federal government mandate was unnecessary and ultimately counter-productive to the SDAP program goal.

those seeking to join the trucking workforce, as well as for those seeking lucrative opportunities as specialized haulers.

The COVID-19 public health emergency provided lessons for Congress and our industry. When the Federal Motor Carrier Safety Administration (FMCSA) provided flexibility on several regulatory requirements, drivers and motor carriers gained new operational efficiencies without compromising safety. For example, FMCSA issued waivers[12] twelve times since March 2020 allowing States to administer the driving skills test to any out-of-state CDL applicant regardless of where the applicant received driver education. FMCSA also issued six waivers since June 2020[13] permitting third-party CDL skills test examiners to also administer the CDL knowledge test. Each time FMCSA re-issued these waivers, the Agency acknowledged that these flexibilities "achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver." The permanent incorporation of these waivers into law by enactment of the *LICENSE Act* will help mitigate the pervasive driver shortage plaguing the trucking industry. The *LICENSE Act* is a prime example of how Congress can advance regulatory relief that addresses the driver shortage without compromising safety.

Another bureaucratic obstacle Congress can streamline is the requirement for duplicative security credentials necessary to operate in secure areas and to handle sensitive freight. Although the Department of Homeland Security (DHS) houses most credentialing programs critical to supply chain continuity, the programs have distinct regulatory requirements that make them inefficient and costly. For example, the Transportation Worker Identification Credential (TWIC), Hazardous Materials Endorsement (HME), and PreCheck programs all require the same exact background check and are all managed by the Transportation Security Administration (TSA), but these programs are not coordinated. Individuals enrolling in these programs must undergo the same background check multiple times, pay duplicative fees, and wait 60+ days on average for TSA to make an eligibility determination. Similarly, U.S. Customs and Border Protection (CBP) manages the Free and Secure Trade (FAST), Global Entry, NEXUS, and SENTRI programs, but individuals seeking enrollment in these programs are not granted reciprocal recognition of background checks and enrollment across these CBP programs. Such inefficiencies are costly for government, industry, and American workers.

We understand and appreciate the need for security credentials to protect the nation from evolving threats, but Congress must take responsibility for the impact that poorly managed programs have on the workers who keep our supply chain running. On behalf of the trucking industry, the rail industry, the pipeline industry, the bus industry, and all of our supply chain partners who need these credentials as a condition of employment, I ask that Congress scrutinize the financing of these stove-piped programs and take the appropriate steps to harmonize duplicative processes. To be clear, we are advocating for the wholesale reorganization of these programs because the status quo is unsustainable. It does not make sense for TSA and CBP to perform the same functions independently and demand that the supply chain cover the steep costs of their inefficiency and mismanagement.

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[12] FMCSA issued the "*Three-Month Waiver in Response to the COVID-19 Emergency – For States and CLP Holders Operating Commercial Motor Vehicles*" on March 28, 2020; June 17, 2020; October 1, 2020; January 1, 2021; February 16, 2021; May 26, 2021; August 31, 2021; November 29, 2021; February 26, 2022; May 27, 2022; August 31, 2022; and December 1, 2022.
[13] FMCSA issued the "*Waiver for States Concerning Third Party CDL Skills Test Examiners In Response to the COVID-19 Emergency*" on June 22, 2020; January 1, 2021; February 16, 2021; May 26, 2021; August 31, 2021; and November 29, 2021.

Congress should embrace formal recommendations[14] from the Government Accountability Office (GAO) dating back to 2007 that DHS should coordinate its background check programs and harmonize programs that require the same background check. In 2019, the Homeland Security Operational Analysis Center (HSOAC) also recommended that DHS allow applicants to apply valid background checks to multiple TSA-managed credentialing programs to reduce costs and hassles for users.[15] The status quo is indefensible. The men and women who keep our supply chain running deserve a federal credentialing process that respects their time and money. It is hard to claim to value America's workforce but continue to ignore the well-documented inefficiency of these important security programs.

Advising USDOT on Expanded Opportunities for Women in Trucking

ATA strongly supported language in the IIJA requiring the U.S. Department of Transportation to establish a Women of Trucking Advisory Board (WOTAB). The Board, which convened its inaugural meeting in November 2022, will provide advice and recommendations to the Secretary of Transportation and Congress on barriers dissuading women from careers in trucking, as well as ways that companies and other entities can work together to support women who want to pursue careers in our industry. We are pleased that representatives from ATA and several of our member companies were appointed to serve on the WOTAB and contribute to its critical mission. We are dedicated to expanding pathways for women to advance their careers in the trucking industry, and we look forward to working with USDOT and Congress to implement recommendations and best practices to realize this important goal. ATA is also pursuing several other initiatives aimed at bolstering the trucking workforce and ensuring every American knows about and can pursue the tremendous opportunities that exist within our industry. Some of the more developed and exciting initiatives we are pursuing are detailed below.

Women in Motion

In conjunction with the establishment of the WOTAB last year, ATA launched the Women in Motion (WIM) program. It focuses on the core issues facing women in our industry. Working with coalition partners, policymakers, and business leaders, ATA's WIM program seeks to provide a more secure work environment for women in the industry. To that end, WIM has been vocal about challenges like the national truck parking shortage that create safety issues for all drivers, but especially female drivers. The WIM program promotes trucking as a viable career path for women while providing support and opportunities for women to advance in our industry.

Women represent less than 10% of the professional truck driver and diesel technician workforce. While that figure has increased substantially over the past few years thanks to concerted industry efforts, we must do more. Through the Women in Motion program, our industry hopes to attract a valuable, untapped, and underutilized segment of the population that has proven ready and able to address the driver shortage. ATA is committed to continuing its work to remove barriers to women joining the trucking workforce. The trucking industry has learned important lessons, and we will continue to pursue meaningful and sustainable progress toward gender equality. I want to be crystal clear with the Committee: ATA and its members are 100% committed to stamping out sexual assault and sexual harassment across our industry. We have zero tolerance for these behaviors in our workplaces. And we

[14] *Transportation Security: DHS Efforts to Eliminate Redundant Background Check Investigations*, (Government Accountability Office, April 2007), 45.
[15] Heather J. Williams et al., *The Risk-Mitigation Value of the Transportation Worker Identification Credential: A Comprehensive Security Assessment of the TWIC Program*, (Homeland Security Operational Analysis Center, 2019), 156.

are working with organizations like Truckers Against Trafficking and law enforcement groups to prevent violence against women in our communities and across the country.

Task Force Movement

ATA is also an active participant in the Task Force Movement initiative to help the trucking industry connect with transitioning service members, veterans, and military spouses. We were pleased to join President Biden, Secretary Buttigieg, former Representative and Secretary of the Army Patrick J. Murphy, ATA member companies, and the International Brotherhood of Teamsters at the White House launch event last year that featured ATA trucks on the South Lawn. The trucking industry continues to welcome returning service members into fulfilling careers in trucking. We know that veterans have the skills and dedication to succeed in our industry, and we are grateful that so many heroes continue to serve America as trucking professionals. ATA is also actively working to promote opportunities in our industry for dual career Americans by working with organizations serving the National Guard and Reserve forces.

ATA DEI Change Leader Award and Best Practices

ATA is also proud of its new Diversity, Equity, and Inclusion (DEI) Change Leader Award[16] encouraging innovation and continuous improvements to the trucking industry's longstanding commitment to equal opportunity. The award recognizes companies embracing best practices and operating in a manner that reflects a culture of acceptance and belonging. In addition to the award, ATA publishes a helpful "best practices" guide for our members to use as they work to further these principles. As I noted in the document, "establishing new career pathways into the trucking industry while broadening and diversifying the talent pools from which the trucking industry recruits will help to alleviate a significant pressure point imperiling the supply chain. It's both the right thing to do and a business necessity."[17]

Sensible Immigration Reforms

Another part of the solution to labor shortages is more effective immigration policy. Everyone in this room knows that our immigration system is broken. The situation on our southern border illustrates the need for immediate action. While there is significant debate about the proper path to take, we should reform the immigration system in a manner that makes sense and supplements our existing workforce. We also need to allow businesses with a demonstrated need (where U.S. workers are not available and won't be displaced) to better access skilled and unskilled guest workers while protecting U.S. workers from improper discrimination or unfair competition. We need to have a calm, level-headed, factual, and honest discussion about these matters. For example, there are Canadian Members of the International Brotherhood of Teamsters who might be interested in working in the U.S. and could do so more easily if the current cap and rules didn't limit their eligibility. I think this Committee can spearhead the effort to identify ways to help our economy through appropriate immigration reforms while protecting U.S. workers.

[16] Details of the award are available at: https://www.trucking.org/DEI-Award.
[17] The Best Practices Document is available at: https://www.trucking.org/sites/default/files/2022-07/ATA%20DEI%20Best%20Practices_0.pdf.

Protect Independent Contractors and Support All Pathways to the American Dream

Fundamental to ATA's commitment to ensuring an adequate new generation of drivers is ATA's commitment to protecting the rights of individuals to become independent contractors in the trucking industry. I can think of nothing more un-American than for the government to extinguish the freedom of workers to choose work arrangements that suit their needs and satisfy their ambitions. Legislative and regulatory efforts to force independent contractors to become employees are an existential threat to addressing the driver shortage. Legislators cannot credibly claim to support addressing the driver shortage if they are working to eliminate independent owner-operators from the trucking industry. On behalf of ATA and the more than 350,000 owner-operators working in the trucking industry throughout this great nation, I want to make it abundantly clear to this Committee that restrictive, arbitrary, one-size-fits-all independent contractor classification standards only benefit special interests and paternalistic politicians at the expense of American workers.

Americans choose the independent contractor model because of the economic opportunity it offers and the flexibility it provides to select the conditions of work (e.g., hours and routes) that suit their lifestyles. Bureau of Labor Statistics surveys show that independent contractors overwhelmingly prefer their work arrangement (79%), with fewer than 10% interested in traditional employee status.[18] This is not surprising because drivers can earn more as owner-operators while retaining the freedom to decide when and where they work. Furthermore, owner-operators are entrepreneurs, and a significant number of today's best motor carrier companies were started by owner-operators.

The trucking industry has been utilizing owner-operators since the inception of interstate trucking, and court decisions over the last 90 years have continually reaffirmed the legitimate role these independent contractors play in the economy.[19] Notably, in our industry, trucking companies are ultimately financially responsible for the actions of the independent contractors they use under certain USDOT regulatory provisions[20] and vicarious liability doctrines under state tort laws. Accordingly, employers in our industry are also doing the right thing by adhering to applicable workplace safety requirements and including compliance monitoring—in many instances pursuant to a mandate from USDOT—in their contractual relationships. Some of our members even go beyond what is required by law to make workplaces safer by providing education or equipment as part of their subcontracting arrangements with smaller motor carriers or independent contractors. Motor carriers often take this approach to advance environmental stewardship or to comply with other legal mandates. This is good corporate citizenship, something to reward rather than turn into a liability by using it as evidence of control when analyzing worker classification or joint employment.

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[18] *Contingent and Alternative Employment Arrangements Summary,* U.S. Bureau of Labor Statistics, 7 June 2018. Available online at: https://www.bls.gov/news.release/conemp.nr0.htm#:~:text=%28See%20table%206.%29%20--While%2079%20percent%20of%20independent,temporary%20help%20agency%20workers%20preferred%20their%20work%20arrangement

[19] *See, e.g., Am. Trucking Associations, Inc. v. United States*, 344 U.S. 298, 303 (1953) ("Carriers subject to [Interstate Commerce] Commission jurisdiction have increasingly turned to owner-operator truckers to satisfy their need for equipment as their service demands."); *US v. Silk*, 331 US 704 (1947); *Merrill v. Pathway Leasing LLC*, 21- 2195 (10th Cir. Aug. 8, 2022) (https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010110730376.pdf).

[20] *See* 49 CFR 390.5. "*Employee* means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler." (emphasis added).

The independent contractor/owner-operator model in trucking has also been a source of empowerment for women, minorities, and immigrants pursuing the American Dream. One of ATA's Road Team Captains[21] put several kids through college while working as an independent contractor for one of our motor carrier members. At the driver level, the trucking industry is more diverse than most industries as far as ethnic representation. In many parts of the country, concentrations of diverse owner-operators perform vital supply chain services—Sikh drivers in northern California, Somali drivers in Minnesota, etc. They are as much a part of the trucking industry and supply chain as every employee truck driver, and they should be embraced rather than pushed away.

Unfortunately, the independent contractor business model is under sustained attack from some in Congress and government regulators at the federal, state, and local levels. California's AB-5 has wreaked havoc on our independent truckers in that State. Many motor carriers have been forced to either engage in the wholesale reorganization of their business structures or leave California altogether. Independent contractors are stuck in the middle, and their options are limited, expensive, and filled with unnecessary and costly red tape. The fact that California issued over 100 statutory exemptions to AB-5 demonstrates that the policy is fundamentally flawed. Litigation on this awful law continues, and while we hope for a good outcome, significant damage has already been done. With the ill-fated stroke of a pen, politicians in California revoked the livelihoods and long-standing businesses of 70,000 owner-operators.[22] California politicians severely exacerbated the existing national driver shortage of 78,000 in the span of a moment. We hope the State of California recognizes the value of independent contractors and provides guidance on aspects of the law that could provide a compliance mechanism recognizing *bona fide* independent contractors in trucking.

At the federal level, a whole host of agencies—including the National Labor Relations Board, the Federal Trade Commission, the Consumer Financial Protection Bureau, and the U.S. Department of Labor—are engaged in activities intended to undermine the independent contractor business model. Unfortunately, some Members of Congress are encouraging these efforts. We strongly urge them to reconsider.

Reject USDOL's Proposed Rule on Independent Contractor Status

The Wage and Hour Division of the U.S. Department of Labor published a notice of proposed rulemaking (NPRM) last October on worker classification under the Fair Labor Standards Act that, if finalized, would create significant safety issues for both our truckers and the motoring public.[23] The agency has targeted May of this year for a final rule.[24]

Unlike the rule currently in effect, the NPRM would create a morass of additional factors to be considered when determining whether an individual is an employee or an independent contractor. In particular, the proposed control provision—control either exercised or unexercised, directly or indirectly, over things like workplace health and safety—will disincentivize efforts to improve health

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[21] America's Road Team is a national public outreach program led by a small group of professional truck drivers who share superior driving skills, remarkable safety records and a strong desire to spread the word about safety on the highway.
[22] "California Trucking Association Responds to U.S. Supreme Court's Decision to Deny Cert on *CTA v. Bonta*," California Trucking Association, Press Release, 30 June 2022. Available online at: https://www.caltrux.org/ab-5-faq/.
[23] *Employee or Independent Contractor Classification Under the Fair Labor Standards Act*, Wage and Hour Division, U.S. Department of Labor, 87 FR 62218 (October 13, 2022).
[24] Fall 2022 Unified Regulatory status for RIN 1235-AA43, *Employee or Independent Contractor Classification Under the Fair Labor Standards Act*, Wage and Hour Division, U.S. Department of Labor. Available online at: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1235-AA43 (accessed March 1, 2023).

and safety and environmental protections. The proposed control provision will have an especially harmful effect on trucking.

Virtually every motor carrier in our industry has contractual provisions with their independent contractors requiring adherence to the law, including health and safety, because they are required by law and/or because it is the right thing to do. Punishing motor carriers with massive legal liability for having these provisions in their agreements is wholly unfair and legally suspect, as is forcing them to convert their independent contractors to employees. Moreover, the American public will ultimately suffer if DOL finalizes a rule that disincentivizes safety, tax compliance oversight, and thoughtful environmental policies. Such a rule would be perverse. It would also contradict congressional mandates and exhortations on the expectations Congress has set for America's commercial motor vehicle operators.

ATA led a national coalition to convey these and other points to USDOL during the comment period on this NPRM. Our affiliated state organizations provided numerous examples of harmful real-life situations the NPRM would create. We hope USDOL will recognize the harm the NPRM would cause if finalized without considerable revisions.[25] If this occurs, ATA will take additional actions to protect the health and safety of our members' employees, independent contractors, and the public. We hope Congress—and this Committee in particular—will emphasize to the USDOL the adverse impacts this rule could have on the trucking industry and America's supply chain.

National Labor Relations Board Atlanta Opera Case

Unfortunately, as noted above, the USDOL is only one of many federal agencies threatening the viability of the independent contractor model. The National Labor Relations Board (NLRB) has also been working aggressively to curtail the ability of independent contractors to operate. In late 2021, the Board solicited briefs on the issue of whether it should overrule existing Board case law and change the standard for determining independent contractor status under the *National Labor Relations Act* (NLRA) to be more restrictive. Such a change would disrupt current business relationships in our industry to the detriment of owner-operators.[26] ATA and others filed briefs explaining how overruling existing caselaw would be harmful to the trucking industry in several respects.[27] We hope the NLRB's decision in this case recognizes the importance of a clear and fair rule and the need to avoid confusion.

The Draconian PRO Act

Despite the significant and persistent workforce shortages trucking and other industries currently face, and despite the unpopularity of AB-5 in California, some in Congress continue to advocate for the *Protecting the Right to Organize (PRO) Act* and other legislation that would destroy the independent contractor business model and exacerbate the driver shortage by effectively banning most of the over

[25] ATA's comment is available here: https://www.regulations.gov/comment/WHD-2022-0003-51407. Related comments were filed by Trucking Associations in Florida, Minnesota, Virginia, Alabama, Arizona, Illinois, Missouri, Kentucky, Iowa, Pennsylvania, Georgia, and Maryland as well as ATA members and other trucking industry representatives opposing the proposal.
[26] *NLRB Invites Briefs Regarding Independent Contractor Standard*, National Labor Relations Board, December 2021. Available online at: https://www.nlrb.gov/news-outreach/news-story/nlrb-invites-briefs-regarding-independent-contractor-standard (accessed February 27, 2023).
[27] NLRB docket containing all briefs is at: https://www.nlrb.gov/case/10-RC-276292.

350,000 owner-operators currently working in the trucking industry.[28] This would result in a sudden and severe impairment of the nation's already fragile supply chain.

Experience has shown that California's AB-5 and its "ABC test" for determining worker classification has been a disaster for the trucking industry, further threatening the stability and sustainability of our nation's supply chain. Compounding this disaster by adopting California's risky experiment as federal law governing all fifty States would exponentially magnify the harm being inflicted on owner-operators, the trucking industry, and the supply chain. We strongly urge Congress to reject the *PRO Act*. Instead of crippling the independent contractor model on which the trucking industry relies, Congress should seek to strengthen it as a means to address the driver shortage.[29]

Continued enforcement of decades-old labor laws and regulations has and should continue to be the basis for punishing the small minority of bad actors. *Bona fide* ICs and good motor carriers generally deserve a level playing field so that the government can hold accountable those who violate these laws and rules while respecting the decisions of individual entrepreneurs and the business practices of the vast majority of our industry who respect the requirements. In short, Congress and this Administration should avoid upending the time-tested balance between employers and employees with schemes entirely engineered to remove personal freedoms. Such outcomes are anti-American, anti-worker, and anti-choice, and collectively would be the result of unabashed pandering to special interests.

Reject Bad Policies that Threaten the Safety, Stability, and Sustainability of the Supply Chain

Congress and regulators can also help the trucking industry by rejecting bad policies that hinder safety, make commercial relationships between supply chain partners more challenging, or harm ongoing workforce development efforts.

In Pursuit of a Safe and Qualified Trucking Workforce

Safe and *qualified* are the operative words for an expanded workforce. As I stated at the beginning of my testimony, safety is at the heart of our organization. As such, we must ensure that efforts to eliminate education requirements for new drivers are rejected and that efforts to ensure a safe and qualified workforce are supported. ATA has long supported the Entry Level Driver Training (ELDT) rule, published in 2016 and implemented in January 2022.[30] Ensuring entry-level drivers receive appropriate instruction from a consistent, industry-wide curriculum is paramount to improving safety on our nation's highways. Most of the trucking industry has embraced ELDT, but ATA is discouraged by recent legislative efforts to exempt certain individuals from this standardized curriculum. Rampant misinformation online prompted a belief that small businesses and other entities can no longer train their employees "in-house," and that ELDT now requires individuals to pay thousands of dollars in tuition to truck driver schools. While these schools are an excellent option for compliance with ELDT, the regulations do ***not*** prohibit motor carriers of any size from continuing the in-house programs they have

[28] One of the talking points we hear fairly often is that the *PRO Act* only applies to labor representation and bargaining issues. That is entirely misleading. Any worker classified as an employee for NLRA purposes is ultimately going to also be an employee for all other purposes. How else would an employer comply with the collective bargaining responsibilities like pay, benefits, seniority, etc. if its employees and independent contractors are in the same bargaining unit?
[29] Legislation like provisions in the *Employee Rights Act* that create updated statutory bright-line rules for independent contractors and joint employer status would be beneficial.

offered for years. ATA encourages this Committee and Congress to support the continued implementation of ELDT, and work with FMCSA to determine how best to increase auditing activities of ELDT, particularly as they relate to noncompliant entities listed on ELDT's Training Provider Registry (TPR).

Safe and *qualified* truck drivers are the trucking industry's greatest asset. Conversely, there is no room on America's roads for drivers operating under the influence of a controlled substance. According to the National Highway Traffic Safety Administration (NHTSA), drug use is on the rise among all drivers, and unfortunately professional truck drivers are not immune to this trend. ATA and the scientific community generally agree that hair testing is a proven safety tool for accurately detecting illegal drug use. Still, the U.S. Department of Transportation does not accept hair tests as an alternative to urinalysis. Furthermore, motor carriers are prohibited from reporting positive hair tests to the Drug and Alcohol Clearinghouse. Truck drivers who have tested positive on a hair test can escape accountability and sidestep the rigorous corrective actions that are otherwise required of individuals who are reported to the Drug and Alcohol Clearinghouse. Today, there is nothing to prevent drivers who test positive on a hair test from operating a truck on our nation's highways. Federal acceptance of hair testing as an independent, alternative testing method would allow employers to use this testing method to identify a greater number of safety-sensitive employees who violate federal drug testing regulations. This will improve the industry's ability to keep these unsafe drivers off the road and get them help as well.

National Labor Relations Board Joint Employer Rule

In addition to potentially harmful adjudicatory activity regarding independent contractors, the NLRB is pursuing a proposed rulemaking on the standard for determining joint-employer status under the NLRA.[31] We believe the proposed rule is arbitrary and capricious, vague to the point of uselessness, contrary to the NLRB's statutory authority and purposes, unsupported by evidence, and otherwise fails to provide any value to the regulated community for working Americans.[32]

The NLRB's NPRM contains specific provisions that, if finalized, would be extremely harmful to commercial vehicle drivers, motor carriers, and the motoring public. Particularly problematic is the NLRB's decision to include "workplace health and safety" in the list of "essential terms and conditions of employment," the sharing or codetermining of which by two employers could make them joint employers. Equally troubling is the NPRM's treatment of indirect and reserved control as factors militating in favor of finding a joint employment relationship.

Extending the reach of joint employment status based on such provisions will discourage employers from maintaining robust employee protections, as well as safety and environmental standards for contractors that effectuate federal and state mandates benefitting the American public. The NLRB should remove these ill-advised provisions, specifically exempt safety and health requirements that flow from legal mandates and focus only on what employers are actually directly doing rather than what they might do in the future.

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[31] *Standard for Determining Joint-Employer Status*, National Labor Relations Board, 87 FR 54,641 (September 7, 2022).
[32] ATA filed comments available at: https://www.regulations.gov/comment/NLRB-2022-0001-11286.

Attacking Workforce Development Programs Through Non-Workforce Agencies

Recent actions by the Consumer Financial Protection Board (CFPB) and Federal Trade Commission (FTC) have the potential to radically curtail financial support for individuals entering the workforce, especially truck drivers.

Many of our members provide reimbursement for individuals taking the required CDL classes or provide in-house CDL education. When a driver joins the company after obtaining their CDL or as part of a company-sponsored program, there is a reasonable and necessary expectation of employment for a period of time to compensate the employer credentialing a driver. Such programs only seek a portion or the actual cost of these programs that are incurred by the employer in providing this professional development. Both CFPB and FTC have taken regulatory actions—an NPRM at FTC[33] and a request for information (RFI) at CFPB[34]—hostile to such investments that open careers to drivers on the grounds they are anticompetitive or abusive "employer-driven debt."

In comments ATA filed with CFPB, we noted that absent our members' investment through these mechanisms, many qualified individuals who want to enter our industry simply cannot afford to do so. Shockingly, the FTC has suggested that such arrangements may be the equivalent of a non-competition agreement.[35] The FTC admits in its NPRM that its proposal could significantly curtail employer investments in workforce development, but nevertheless insists on a paternalistic standard that will only foreclose opportunities for workers—especially economically disadvantaged individuals—and exacerbate the driver shortage.

Update the *Workforce Innovation and Opportunity Act*

The trucking industry recognizes that a baccalaureate degree is not the appropriate or necessary path for everyone, and we strongly support the empowerment of individual freedoms by providing multiple pathways to achieving the American Dream. There is an opportunity for this Committee to find common ground this Congress and put forward bipartisan solutions to update the *Workforce Innovation and Opportunity Act* (WIOA) and modernize federal assistance to develop the next generation of American workers.

As the Committee on Education and the Workforce examines the nation's workforce needs and contemplates reauthorization of WIOA, I ask that you please first ensure that workers can continue to seek opportunities without the government adding additional red tape or restrictions. Where appropriate, the ATA further recommends that you consider legislative changes to the workforce development system that will better serve the needs of our dynamic, modern economy. Almost all of our public policy and societal challenges are best solved with more freedom and more opportunity, and I urge you to use those principles to guide your legislative efforts.

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[33] The FTC rulemaking is primarily about non-competition agreements, which are allowed in 47 states generally. ATA does not believe FTC has the legal authority to regulate in this area and certainly not when it states that the rule also curtails non-solicitation of employees and customers as well as non-disclosure agreements, and the aforementioned reimbursement agreements. The proposal also includes employees all the way up to the executive level, which even if legally permitted, is extremely bad policy for a number of reasons.

[34] The CFPB RFI is available at: https://www.federalregister.gov/documents/2022/09/02/2022-19016/request-for-information-regarding-employer-driven-debt. ATA's comment on the CFPB RFI is available at: https://www.regulations.gov/comment/CFPB-2022-0038-0050.

[35] Non-Compete Clause Rule, Notice of Proposed Rulemaking, Federal Trade Commission, 88 FR 3,482, at 3,483 (January 19, 2023).

Make the Workforce Development System More Adaptable

Programs take time to develop, and policymakers must generally allocate resources and set priorities without advance knowledge of economic changes, such as the COVID-19 pandemic or natural disasters, which may change the landscape of priorities. Given this reality, state and local workforce officials should be allowed to innovate and incorporate sector strategies and partnerships and adapt to different economic conditions as they see fit. In reauthorizing the *Workforce Innovation and Opportunity Act*, we urge Congress to recognize that a true one-stop delivery system should grant flexibility for States (and, if the States deem it appropriate, to local bodies) to make decisions about allocations and priorities. Waiver and program demonstration authority allowing almost complete discretion to innovate delivery services aligned to regional economies should be considered. Mandates from Washington will accomplish a lot less than could be accomplished by empowering governors with full authority to channel funds within their States.

Apply Lessons from the COVID-19 Pandemic Response to Identify In-Demand Priorities

Although the pandemic and resulting supply chain crisis exposed the gravity of the truck driver shortage to the American public, we have known about (and warned about) this growing problem for many years. Similarly, the White House has recently identified cybersecurity as an acute need for every American business. Unfortunately, the workforce investment system is not structured or resourced to quickly address such urgent workforce needs. To address these emerging issues and priorities, the Committee should provide a mechanism for USDOL to provide workforce systems greater capacity to quickly focus on such pressing needs. For example, Congress could direct USDOL to designate "truck driver" or "cybersecurity professionals" as national in-demand occupations to ensure every workforce board is authorized to reallocate resources for jobs in these sectors. Such authority would, of course, need to include safeguards to avoid trampling on the important value of State and local control while cutting red tape for the benefit of workers, businesses, and the nation's economy.

Place Authority and Responsibility at the Same Level, and Incentivize

Much of the burden for reporting and legal compliance is on State workforce officials. These officials need more enforcement power and better incentives to ensure programs deliver quality education for in-demand jobs. Those responsible for the delivery of services should also be responsible for the results. This also generates continuity among States, directly supporting the efficient flow of interstate commerce. Moreover, those individuals should have all the necessary authorities to meet the workforce needs of their local economy, including integrating funding streams and delivery. Additionally, these authorities should include the ability to provide incentives for grantees and contractors involved in education programs for greater efficiency and/or effectiveness in job placements, as well as timely payment to those providing the education. For example, truck driver schools that participate in workforce programs in some States have historically complained that payment can be months behind, which means they are discouraged from participating in such programs.

Better Integrate Federal Workforce Programs to Reduce Confusion and Waste

The *Workforce Innovation and Opportunity Act* was a step forward in streamlining programs and creating more uniform metrics for measuring success. However, other programs at the Department of Labor (i.e., Trade Adjustment Assistance, Wagner-Peyser, *National Apprenticeship Act* programs), Department of Education (i.e., Postsecondary Education; Career, Technical, and Adult Education), Department of Health and Human Services (i.e., Temporary Assistance for Needy Families), the Department of Veterans Affairs, and other federal agencies are all stove-piped and subject to a dizzying array of varying standards and performance metrics. These variations make it difficult for state and local officials to make one-stop service delivery a reality. Some of the programs are managed or funded at the local level, but most are managed or funded at the State level, creating a convoluted framework of responsibility and accountability, as well as bureaucratic redundancy.

Various overlapping and contradictory mandates in federal law also create inefficiencies. For example, some statutory programs require local employees to provide career services to some customers. Still, state employees must provide similar or identical employment services to other customers. There are, likewise, requirements for the number of workforce boards in a state and the number of physical locations required for various services in every workforce board jurisdiction. These types of managerial decisions should be left to the discretion of States, particularly given the greater capacity for virtual services developed during the COVID-19 pandemic.

Collaborate with Industries to Direct Resources and Develop Curricula

A significant hurdle to effective workforce development is that private-sector employers are not always directly involved in developing curricula created by non-profits or governmental entities that are the recipients of federal and state funds. In the trucking industry, this results in programs that often do not meet current workforce needs. For example, as I noted above, many community college mechanical programs are still educating enrollees for diesel overhauls despite changes in the industry that make such work rare and devalue the education to perform it. Funding match requirements that make recipients partner with local employers (including allowing in-kind services or equipment options or hiring commitments if direct financial commitments are not an option) would ensure better coordination between what programs offer and the skills local businesses are seeking. This would increase employment prospects for program participants and make programs more effective at filling in-demand positions.

Likewise, standards making private for-profit sector entities ineligible for most federal funding streams should be reconsidered. In the context of the trucking industry, several ATA members have established and funded their own truck driver schools (some outsource their programs but subsidize them for recruited drivers). There is no reason a truck driver educated at a for-profit motor carrier's truck driver school is any less knowledgeable or prepared than a truck driver educated at a non-profit or community college program or an unaffiliated school. Indeed, given the overwhelming truck driver shortage, trucking companies are incentivized to educate new drivers quickly and ensure they receive a superior education to assist with retention. And, as noted earlier in my testimony, regulations governing our industry also incentivize high-quality education for new drivers to avoid potential tort liability for accidents.

The vast majority of drivers in our industry obtain their credentials from the for-profit sector. By denying these vital workforce partners access to the workforce system, Congress is inherently discriminating against those workers most in need of financial support for a career in trucking. Similarly, companies that provide loans or at cost education with reimbursements over time for a CDL need to be recognized as part of the solution. Indeed, some union-registered apprenticeship programs have long required reimbursement by workers who leave before a set period.

Allow Broader Eligibility for Education Funding Streams

Allowing individuals to determine what kind of education they want and how to get it would afford more significant control over career paths and increase the likelihood of candidates receiving education for in-demand careers. This is already done to a degree in higher education through Pell grants and student loans. These programs, however, are often restricted to degree programs that are defined to require hours and/or type of credential requirement that exclude truck driver schools and a lot of mechanic programs. The Committee should consider expanding higher education programs to certificate programs, or at least education programs that result in an official state-required license for a profession. Even if changing Pell grant requirements is not a viable option, there should be a proper mechanism for short-term but high value programs like CDL education or diesel technician that would allow students access to the same financial support as a degree program[36]—especially if the FTC and other regulators are going to enact rules dissuading employers from investing in workforce development.

Seize the Opportunity to Find Common Ground

We all recognize that there will be situations that prompt honest disagreement. That said, it is imperative that we work together when there is common ground; legislating does not have to be a zero-sum game. When I served on the HELP Committee many years ago, Senator Enzi and Senator Kennedy would regularly reach a compromise on legislation. Each got a portion of what they wanted, and nobody was forced to compromise their substantive principles in the process.

An example of where this model would be beneficial is the *Workforce Innovation and Opportunity Act*. Last Congress, the bill to reauthorize the Act, sponsored by the then-Chair of this Committee, Rep. Bobby Scott, had provisions such as the relaxation of the restrictions for providing services to incumbent workers that I think we can all get behind. Individuals who have proven themselves by working diligently in a low-wage position should not have that diligence punished or be excluded from supplemental education opportunities. Helping these working Americans expand their skills and productivity benefits everyone.

Common sense improvements to our nation's workforce development systems should garner the support of all—and it is imperative that, where we can achieve consensus, we seize the opportunity.

CONCLUSION

In closing, I am grateful for the opportunity to testify before you today on behalf of the American Trucking Associations and the nearly 7.65 million men and women in trucking-related jobs who power our nation's supply chains and keep the wheels of the economy turning. Trucking is the dynamic linchpin of the U.S. economy. As I have emphasized in my testimony, the trucking industry's best asset is our incredible workforce. Truckers move practically everything we touch in our daily lives.

[36] The U.S. Department of Education's "gainful employment" rule that is currently pending notes plans to regulate vocational education programs and assess their quality. While that appears to be a longer-term prospect and we do not believe truck driving programs need additional regulation by the Education Department given their cost and time, we believe any quality trucking school in the country will beat virtually every other vocational education category and school in terms of taxpayer value given the wages drivers currently command and the 4-8 weeks education.

Congress should avoid bad policies that will exacerbate the driver and technician shortages and seize opportunities to enhance our workforce and empower the next generation of *safe* and *qualified* transportation workers. By removing the roadblocks to education discussed above and protecting our workers' ability to earn a living—including those budding entrepreneurs who have launched an independent business—we can grow our economy and ensure American competitiveness for future generations. I look forward to working with Chairwoman Foxx, Ranking Member Scott, and the other Members of the Committee to support efforts to meet those challenges. Thank you.

Chairwoman FOXX. Thank you very much. Mr. Akers, you're recognized for five minutes.

STATEMENT OF JERRY AKERS, SMALL BUSINESS OWNER AND FRANCHISEE, PALO, IA, TESTIFYING ON BEHALF OF INTERNATIONAL FRANCHISE ASSOCIATION

Mr. AKERS. Good morning, Chairwoman Foxx, Ranking Member Scott, and distinguished Members of the Committee. My name is Jerry Akers, and I own and operate with my wife and two daughters, 39 Great Clip Salons and 5 The Joint Chiropractic Clinics in my home State of Iowa, as well as Nebraska.

I appreciate the invitation to appear on behalf of the International Franchise Association to share my story of small business ownership and share the value proposition of the franchise business format. It is a particular privilege to testify at this time of year as Great Clips is the official hair care provider of March Madness, one of the many benefits of signing with a franchise brand.

After all, if I opened my own salons, there's no way that I could afford to do March Madness for advertising. I have experienced first-hand the impact of the remarkable franchise model, and what it does to change the lives of aspiring entrepreneurs, employees, and local economies.

Originally from Iowa, I grew up on a farm. Today, my wife and I have established an enterprise that now employs 220 team members, and as an area developer for the Joint Chiropractic, I also assist fellow franchisees to generate sustained success for their entrepreneurial journey.

Our business is impacting four generations of my family, and up to three generations of employee's families as we speak. Franchising democratizes business ownership, perhaps more than any other business model in America. Around 26 percent of franchises are owned by people of color, compared with 17 percent of independent businesses.

Further, black owned franchise firms generate an average of 2.2 times more in sales compared to black owned non-franchise businesses. The COVID–19 pandemic battered all small businesses in historic ways and caused us to permanently shut down five of our Great Clips salons.

Our employees are literally a part of our family, and we had to furlough them because we had no revenue coming in to take care of them. During the early days of COVID, we held daily check-in calls with our entire staff across two states, with constant updates as to their potential return to work. We provided health insurance to those who had health insurance with us every day of the pandemic, despite our business being threatened.

Being part of a franchise system helped us navigate the pandemic. In franchising, we say you go into business for yourself, but not by yourself. My fellow franchisees regularly shared best practices and brainstormed ideas on how to reopen and operate. Our systems help us access programs like the EIDL and the ERTC as well as the PPP loans. Each week our brand hosted weekly webinars to assist with operations, including how to find personal protection equipment, and the most current salon guidelines by recommendations of the CDC.

Our brands also cut down on franchise fees, so we were able to focus more on the health precautions and safety for our employees and customers. The economic uncertainty initiated by COVID–19 pandemic has highlighted the many benefits of the franchise business model.

According to a recent survey, 50 percent of franchisees said they were better able to navigate inflationary pressures, and other pandemic area business challenges thanks to the support of their franchising network. While we are on a path to recovery from the devastating effects of the pandemic, we still have a long way to go. According to an IFA survey released earlier this month, the availability of workers remains the most important problem facing franchise businesses today.

We want to hire 70 more staff members, but despite the fact we offer top wages, and exceptional benefits in comparison to other businesses in our area, we cannot. We also offer our employees an opportunity to pursue education at cosmetology schools, but Iowa is a challenging State. The industry faces some of the most onerous occupational licensing requirements of any business model.

The unnecessary requirements to work in hair salons leaves significant economic development on the table in many states. Despite all these economic headwinds, if policymakers do no harm, franchise businesses and all business lines will surely accelerate the post-COVID economic recovery, but there is no more significant and avoidable threat to small businesses than the PRO Act.

As a hotel owner testified before the Senate in 2021, the PRO Act is perhaps the single most anti-small business bill ever introduced in Congress. That's because as soon as legislation is signed into the law, the PRO Act's joint employer, and independent contractor provisions would combine to legislate away the ability to operate a franchise as a small business owner.

There must be a better way to protect workers? rights that doesn't come at the expense of small businesses. In the face of the PRO Act in the National Labor Relations Board's forthcoming Joint Employer Rule, small business owners need legislation called the Save Local Business Act. This is the single most important Federal legislation for the 800,000 franchised businesses nationwide.

As it would certainly provide guidance for misguided regulators who will legislate away the future of the business model. In conclusion, franchise businesses possess the unique ability to address the workforce challenges faced by our Nation. Franchise businesses also offer unparalleled opportunities for people of color, women, and veteran entrepreneurs, promoting a more inclusive and diverse business landscape. Thank you again Madam Chair for holding this hearing, and I'm happy to answer questions.

[The prepared statement of Mr. Akers follows:]

PREPARED STATEMENT OF JERRY AKERS

INTERNATIONAL FRANCHISE ASSOCIATION

JERRY AKERS

FRANCHISEE/OWNER
SHARPNESS, INC DBA GREAT CLIPS AND THE JOINT CHIROPRACTIC
PALO, IOWA

TESTIMONY BEFORE THE U.S. HOUSE COMMITTEE ON EDUCATION AND WORKFORCE

HEARING ON "UNLEASHING AMERICA'S OPPORTUNITIES FOR HIRING AND EMPLOYMENT"

MARCH 28, 2023

Good morning Chairwoman Foxx, Ranking Member Scott, and distinguished members of the Committee. My name is Jerry Akers, and I am a franchise business owner of Great Clips and The Joint Chiropractic. I own and operate with my wife and two daughters 34 Great Clips and five The Joint Chiropractic locations in my home state of Iowa, as well as Nebraska. I appreciate the invitation to appear before this Committee to share my story of small business ownership and discuss the views of local business owners everywhere as it relates to challenges of today's labor market. I will focus my comments on the path to recovery from the COVID-19 pandemic, the ongoing workforce challenges which continue to be an issue of great importance to franchise business owners like me, and policies that could diminish my business and my employees. It is important that small business perspectives are heard by our nation's leaders.

I appear before you on behalf of the International Franchise Association (IFA). IFA is the world's oldest and largest organization representing franchising worldwide. Celebrating over 60 years of excellence, education and advocacy, IFA works through its government relations and public policy, media relations and educational programs to protect, enhance and promote franchising and the approximately 790,000 franchise establishments that support nearly 8.4 million direct jobs, $825.4 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 and business development.

I have experienced firsthand the remarkable impact that franchise businesses can have on local economies and communities, including their ability to create jobs, develop a skilled workforce, and foster economic growth. My wife and I have created a community of our own employing over 220 team members that have been part of our system over the past several years. As a multi-brand franchise owner and area developer for The Joint Chiropractic, I also assist other franchisees to create success and generate wealth in their communities. We are proud of the growth of franchising and its role in the economic recovery. Franchising had an exceptional year in 2022, and 2023 looks to be another strong year of growth. Even with current economic headwinds, franchising is expected to continue to expand at a more moderate pace, trending upwards with the United States' overall economic progression and exceeding pre-pandemic norms.

In my testimony, I will share how my business has served its employees and local communities and how the franchise business format helped my business and employees during the pandemic; reveal how salons and other small businesses are recovering from the COVID-19 pandemic; and show why harmful policies like the PRO Act needlessly threaten every small business during the economic recovery.

The unique franchise business format

Franchising is perhaps the most important business growth strategy in American history. The first franchises were actually started in the colonies by Ben Franklin, and over the centuries, this system has served as an American model of opportunity and entrepreneurism. In 1731, Ben Franklin entered into a partnership with Thomas Whitemarsh, who franchised his printing business – *The Pennsylvania Gazette.* Later, Whitemarsh would introduce the first "franchised" newspaper of South Carolina, the *South Carolina Gazette*.

Franchising has contributed to robust job creation, and a skills development ground for small business owners and workers. Today, there are more than 790,000 franchise establishments, which support nearly 8.4 million jobs.[1] "Many people, when they think of franchising, focus first on the law. While the law is certainly important, it is not the central thing to understand about franchising. At its core, franchising is about the franchisor's brand value, how the franchisor supports its franchisees, how the franchisee meets its obligations to deliver the products and services to the system's brand standards and most importantly – franchising is about the relationship that the franchisor has with its franchisees.

In essence, a franchise is a local business that licenses the branding and operational processes of a parent company but operates independently in a defined market. The local owner, or franchisee, is responsible for hiring staff, organizing schedules, managing payroll, and all daily operational tasks as well as local sales and marketing. The value of franchising lies in the franchise system giving aspiring small business owners a head start toward becoming their own boss, with easier access to lines of credit than a traditional business and a proven business model that can set up new business owners for success.

In a recent study by Oxford Economics, we found that franchising offers a path to entrepreneurship to all Americans, but especially to minorities and women. Around 26% of franchises are owned by people of color, compared with 17% of independent businesses generally. The study also found that the industry provides better pay and benefits than non-franchised businesses. In addition, franchising offers entrepreneurial opportunities that would not otherwise be available, especially to women, people of color, and veterans.[2] On average, franchises report sales 1.8 times as large and provide 2.3 times as many jobs as non-franchise businesses. Sales and jobs in franchised businesses exceed non-franchised businesses across all demographic cuts, including gender and race. For example, Black-owned franchise firms generate 2.2 times as much in sales compared to Black-owned non-franchise businesses, on average.

Despite how it is often characterized, franchising is not an industry. Franchising is a business growth model used *within* nearly every industry. More than 300 different sectors are represented in franchising, and franchise companies offer a huge range of products and services from lodging to fitness, home services to health care, plumbing, pest control, restaurants, security, and lawn care.

Furthermore, notwithstanding any popular misapprehensions, franchising consists of far more than merely the "fast food" industry. In fact, 63% of companies that franchise are not in the food services at all, and 83% are not in fast food.[3] As you can see in the graphic below, there are far more local (50% of all franchised brands) and regional brands (34% of all franchised brands) whose names you might not recognize than the fast food giants that garner the most attention.

[1] Franchiseeconomy.com (2021).
[2] The Value of Franchising. Oxford Economics (2021)
[3] FRANdata research. (2021).

There are two principal explanations given for the popularity of franchising as a method of distribution. One is that it "was developed in response to the massive amounts of capital required to establish and operate a national or international network of uniform product or service vendors, as demanded by an increasingly mobile consuming public."[4] The other is that franchising is usually undertaken in situations where the franchisee is physically removed from the franchisor, giving autonomy to the franchisee to run their own day-to-day business operations. These two motivations are consistent with a business model in which the licensing and protection of the trademark rests with the franchisor, and the capital investment and direct management of day-to-day operations of the retail outlets are the responsibility of the franchisee, which owns, and receives the net profits from, its individually-owned franchise unit.

It is typical in franchising that a franchisor will license, among other things, the use of its name, its products or services, and its operational processes and systems to its franchisees. Consequently, it is commonplace for a franchisor to impose standards on its franchisees, necessary under the federal Lanham (Trademark) Act to protect the consumer. Such standards are essential for a franchisor that seeks to ensure socially desirable and economically beneficial oversight of operations throughout its network. These standards allow franchisors to maintain the uniformity and quality of product and service offerings and, in doing so, to protect their trade names, trademarks and service marks (collectively the "Marks"), the goodwill associated with those Marks, and most importantly, the protection of the consumer. Because the essence of franchising is the collective use by franchisees and franchisors of Marks that represent the source and quality of their goods and services to the consuming public, action taken to control the uniformity and quality of product and service offerings under those Marks is not merely an essential element of franchising, it is an explicit requirement of federal trademark law.

Overcoming challenges of COVID-19

Originally from the state of Iowa, I grew up on a farm. Like many, I found franchising a pathway to build a new life that my wife and I could pass onto our children. Our business is now a second-generation business and is impacting four generations of our family and up to three generations of our employees' families.

The COVID-19 pandemic battered small businesses in historic ways. From March 2020-August 2020, within the first six months of the COVID-19 outbreak, an estimated 32,700 franchised businesses had closed; 21,834 businesses were temporarily closed, while 10,875 businesses were permanently closed. We had to permanently shut down four of our Great Clips salons. Our employees are part of our family, and while not an ideal circumstance, we had to furlough our staff. At a time of such crisis, we held daily check-in calls with our staff providing them constant updates of their potential return to work. To further ensure our commitment to our working family, we continued to provide health insurance to our entire staff despite our business doors being shut down.

Being part of a franchise system helped us navigate the pandemic immensely. In franchising we say, "you go into business for yourself, but not by yourself." In a time of great need, other franchisees of Great Clips and The Joint Chiropractic would stay connected regularly to share best practices and brainstorm ideas on how to best approach government assisted programs like the Economic Injury

[4] Kevin M. Shelley & Susan H. Morton, "Control" in Franchising and the Common Law, 19 Fran. L. J. 119, 121 (1999-2000)

Disaster Loans (EIDL) and the Paycheck Protection Program (PPP) loans. In addition to franchisee communications, we had significant support from our franchisors. Each brand hosted weekly webinars to assist with operations, including setting up Personal Protective Equipment (PPE) and the then-current salon guidelines per the recommendations of the Center for Disease Control (CDC). Our brands also cut down on franchisee fees so we were able to focus on more health precautions and safety for our employees and customers.

While we are on a path to recovery from the devastating effects of the pandemic, we still have a long way to go.

Occupational Licensing and Barriers to Career Growth

Today, our second-generation family business employs over 220 employees. We offer top wages and exceptional benefits in comparison to non-franchised businesses in our area. We also offer our employees an opportunity to pursue education at cosmetology schools, but Iowa is a challenging state. The cosmetology industry is an area that is struggling the most to meet the mounting increase in occupational licensing requirements and regulations. Hair salon franchises are constantly juggling the inconsistency in occupational licensing requirements in each state. For example, a hair stylist in New York state is required to partake in 1,000 hours of a cosmetology curriculum before a franchise owner in New York state can hire them. On the other hand, a hair stylist in Iowa, is required to take a 2,100-hour cosmetology course. With rising inflation, the cost of education continues to rise and puts an added burden on our employees that are seeking to progress in their franchise career.

Another barrier to entry is the cost of cosmetology school and the amount of student loan debt that aggregates. Stylists in New York pay an average of about $14,000 for tuition and supplies plus living expenses to put themselves through the 1,000-hour cosmetology curriculum. The longer the program requires, the higher the cost of the school and the higher the federal student debt load. On the opposite end of the spectrum, and country, cosmetology licensing in Iowa requires 2,100 hours. That is more than double the required hours for New York, which could more than double the cost to become licensed in Iowa or one of the other states that require 2,000 or more hours for licensure. Understandably, longer curriculums create greater financial risk for students and this expensive financial decision potentially removes an entire sector of our working population from pursing a fulfilling career.

IFA proposes three main solutions to make the occupational license process more manageable for employees: 1) we encourage greater license portability, 2) we support state measures that lower requirements to 1,000 hours of pre-license education, and 3) we suggest that states implement pre-graduate testing.

The state of the franchise business economic recovery

While the pandemic affected nearly all small businesses, the Small Business Administration (SBA) noted industry and demographic differences in the impact of the pandemic on business owners. Among demographic categories, there were larger declines for Asian and Black business owners. The total number of people who were self-employed and working declined by 20.2 percent between April 2019 and April 2020. The Hispanic group experienced a higher decline, at 26.0 percent. The highest declines were experienced by the Asian and Black groups, with a decline of 37.1 percent for the Asian group and 37.6 percent for the Black group. Meanwhile, leisure and hospitality had the largest decrease in employment, at 48 percent, and had the third largest small business share, at 61 percent.[5]

Franchise business owners have been grateful to policymakers for the federal response. Congress provided $525 billion in emergency funds extended through the Paycheck Protection Program and $194 billion through the Economic Injury Disaster Loan program, which helped keep our businesses afloat.

Coming out of the pandemic, franchising experienced an explosion of growth in 2021, following by period of moderation in 2022 that will continue through 2023. Economic headwinds such as high inflation, labor shortages, and supply chain issues brought on by the pandemic continue to challenge franchised businesses. .

However, the economic uncertainty initiated by the COVID-19 pandemic has highlighted the many benefits of the franchise business model. For example, according to the IFA/FRANdata 2022 Franchisee Inflation Survey, 50% of franchisees said they were better able to navigate inflationary pressures and other pandemic-era business challenges thanks to the support of their franchising network.

In 2023 and beyond, the economy will rely on franchised businesses to steer the ongoing economic recovery, boost consumer confidence, and improve sentiment among small business owners. Because of its unique business model, franchising can serve as an economic catalyst in states and communities. For example, as the labor market slows in 2023, leading to an potential increase in job losses and unemployment rates, franchising can offer retrenched workers at all levels an alternative avenue to re-enter the workforce. Additionally, franchising gives many people a chance to own and operate a successful business that adds jobs across the economic spectrum. Franchises also offer a supportive environment where first-time business owners can benefit from established systems, branding, and insights from more experienced franchisees.

In 2022, an estimated 790,492 franchised businesses delivered products and services to customers in the United States. The year-over-year growth rate from 2021 to 2022 was approximately 2%, which is faster than most historical growth rates. The growth in units in 2022 was supported by increased consumer spending, a strong labor market, and healthy financial institutions. However, economic headwinds including labor shortages and high inflation beginning in the second half of 2022 impacted the growth in franchised units. Inflation drastically increased the cost of opening new business units in 2022. When coupled with high interest costs, the cost of investing in a franchising unit increased by almost 30% in certain instances. Because lenders have now adopted a cautious stance in which they vet each investment opportunity in more detail than ever before, the time to underwrite a new loan has increased. Considering the tight monetary and fiscal environment, FRANdata projects that franchised establishments will grow by 1.9% in 2023 to reach the total of 805,436 franchised units.

The personal services industry boasts some of the fastest growing categories, including health and fitness centers, beauty-related studios, and home health care. According to the latest "Occupational Outlook Handbook" published by BLS, the personal care and service occupation is expected to grow 14% over the next few years, with approximately 762,600 openings per year. This growth exceeds the average for all occupations, and employment statistics imply a large demand for this industry.

[5] Daniel Wilmoth, The Effects of the COVID-19 Pandemic on Small Businesses. U.S. Small Business Administration (2021).

According to FRANdata's New Concept Reports published last year, more personal services brands have emerged, with an increased distribution seen across all new concepts from the first quarter to the fourth quarter. Alongside QSRs, the personal services industry also has more projected units for 2023 than any other industry.

In 2023, FRANdata forecasts that personal services will continue to lead franchising expansion, experiencing the highest growth both in the number of establishments and outputs. These establishments are predicted to increase by 2.5% to 120,302 locations, while outputs are expected to grow by 6.7% to $42.1 billion. This industry grows as consumers' health needs increase, and there is an increased demand for home healthcare, fitness centers, and beauty services. Notably, this industry will become more competitive compared with other industries as more new players enter the market. On the other hand, while the consumer confidence index did not decline at the end of 2022, people are likely to be more cautious about what they need to buy in 2023, which may impact growth.

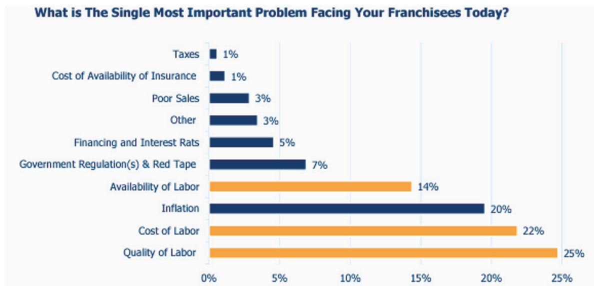
In addition, the personal services sector will deliver about 577,450 jobs to the franchising market. As this industry is highly reliant on skilled labor, the ability of personal service owners to retain their current employees becomes even more important during labor shortages.

Despite all of these economic headwinds, and if Congress does no harm, franchise businesses in all sectors will surely accelerate the post-COVID economic recovery. While the number of unemployed individuals peaked at nearly 30 million workers early in the pandemic, such workforce dislocation forced many individuals to try entrepreneurial ventures, including starting new franchise businesses, which has contributed to the economic growth cited above. This outsized growth should be expected because franchising has helped fuel recovery following past economic downturns. After the financial crisis from 2009-2012, employment in the franchise sector grew 7.4%, versus 1.8% growth in total U.S. employment.[6]

Labor continues to be top issue for franchising

The robust recovery of the labor market in 2021 continued to hold strong in the year 2022. According to the U.S. Bureau of Labor Statistics (BLS), the unemployment rate edged down to 3.5%, one of the lowest in history. Demand for labor far exceeded the supply, resulting in a wage growth of 9.0% in 2022. The wage growth tapered down in the fourth quarter of 2022 to 6.4%. ADP Research projects wage growth in 2023 of approximately 3%, which is higher than pre-pandemic norms. Quality and cost of workforce remains the biggest challenge for almost all franchised businesses. According to the IFA/FRANdata 2023 labor survey of franchisors and franchise portfolio companies, 81% of franchised brands experienced constrained growth due to labor challenges, a continuation from 2022. Nearly identical to last year, 87% of franchisees have had difficulty filling in positions for unskilled labor, skilled labor, or both (88% in 2022).

[6] FRANdata research (2021).



In 2023, the franchise labor market will be even more competitive than it was in 2022. According to the IFA/FRANdata 2023 labor study, 85% of the franchisors surveyed reported an increase in store-level wages in the past six months, and 43% of franchised businesses reported benefit increases. Almost 60% of the franchisors surveyed anticipate an increase in labor wages in the next six months. FRANdata expects that the rebalancing of the labor market will likely take some time, and franchisees will continue to face labor related challenges at least in the first half of 2023.

Now the biggest threats facing franchise small businesses like mine during the economic recovery are legislative and regulatory action. There is no more significant and avoidable threat to small business job creators than the PRO Act.

Policies setting back economic growth

The PRO Act is perhaps the most anti-small business bill ever introduced in Congress. There must be a better way to advance worker rights in an evenhanded way. Instead, on the backend of a global pandemic that had a disproportionately negative impact on Main Street businesses, business owners are once again facing this bill. It is incredibly disheartening to small business owners that this legislation has been reintroduced in both the U.S. House of Representatives and the U.S. Senate.

The PRO Act puts the very existence of franchise businesses in jeopardy. It cobbles together more than 50 imbalanced amendments to the National Labor Relations Act which are designed to tip the scales against small businesses. The enormous risk associated with the PRO Act will serve only to corporatize the franchise model, encouraging brands to grow through franchisor-owned outlets, while shying away from offering ownership opportunities to new entrepreneurs. Franchising empowers new entrepreneurs to operate under a national brand, letting small businesses and national companies grow faster and contribute more to local communities and the wider economy, and two provisions stand out as exponentially worse than the rest for franchising.

First, the bill would enshrine in federal law a boundless "joint employer" standard, making franchise brands responsible for actions taken by small businesses at the unit level. This puts franchisors at risk of being sued for things they never did and had no power to stop. Moreover, it risks wiping away the equity that I have spent my life and career building in my businesses and ultimately makes me a middle manager of my brand.

Faced with the PRO Act's new liability regime, franchise companies are much less likely to partner with local entrepreneurs, which means small business ownership opportunities will dry up on Main Street. The joint employer standard created by the National Labor Relations Board (NLRB) in 2015 led to a nearly doubling of litigation against franchise businesses, cost franchising $33 billion per year, and preventing the creation of 376,000 new jobs in the four ensuing years. Today, the NLRB is well on its way to issue a final rule on a joint employer standard that would reverse its course back to the harmful 2015 version.

The bill's second provision directly impacting franchising is perhaps worse. It would institute a three-part, so-called "ABC test" to determine when individuals can be classified as independent contractors. The purpose is to classify more workers as direct employees, thereby making those workers easier to unionize. The PRO Act's ABC test language is so broad that it would likely define franchisees as employees of their brand, instead of the independent small business owners they really are. This would eliminate the path to entrepreneurship at the heart of franchising — and the opportunities and incentives within the business model.

As one consequence, these changes would mean hiring numerous attorneys at the franchisor level to oversee employment issues and claims over which the franchisor has no control. Ultimately, the additional costs to the franchisor would translate into additional costs to independent owners like me, that would make the franchise business model untenable. These changes would take away the equity and independence of franchise small business owners and would put their success and livelihoods, including mine, in jeopardy.

Without a doubt, these seismic shifts in employment policy would hurt small businesses and provide fewer opportunities, particularly for women, minorities, and other underrepresented communities. Growing a business through the corporate model does not provide ownership or wealth building opportunities. We need policy and regulatory changes that will drive wealth creation and new business ownership opportunities for the most underserved communities, not hinder it.

Due in large part to its treatment of franchise small businesses, the PRO Act puts the national economic recovery at risk. As written, the PRO Act would harm current franchise owners through a potential massive expropriation of equity. It would harm potential franchise owners through limiting economic opportunities available to them. It would harm franchise employees through a sudden change of their places of work away from uniquely crafted communities and into a large corporation. Finally, it would harm franchise brands by upending the business model that they use to grow and expand in communities across the U.S.

In contrast, below are just a few legislations that would help small businesses tap into their potential to be an economic power engine and further assist the workforce issue:

- Essential Workers for Economic Advancement Act
- Asylum Seeker Work Authorization Act
- Save Local Business Act

Conclusion

Franchise businesses contribute significantly to our nation's economy, creating a diverse range of employment opportunities from entry-level positions to management roles. By offering these opportunities, franchises help address unemployment and underemployment, ensuring that individuals across our nation have access to stable, fulfilling work.

Moreover, franchise businesses often provide comprehensive education and support for their employees, fostering the development of a skilled workforce. These workforce development programs not only benefit individual businesses but also contribute to the overall strength of our nation's workforce, making it more competitive on the global stage.

Another key aspect of franchise businesses is their ability to support aspiring entrepreneurs. By offering a platform for individuals to become small business owners with lower risks than starting a business from scratch, franchises encourage entrepreneurship, which in turn creates more jobs and enhances local economies.

Franchise businesses also offer unparalleled opportunities for people of color, women, and veteran entrepreneurs, promoting a more inclusive and diverse business landscape. This diversity strengthens our workforce and helps create a more equitable and prosperous society.

It is also important to acknowledge the role franchise businesses play in community engagement. Most franchises invest in their communities by engaging in charitable activities and supporting local organizations. This not only creates an environment where people can thrive but also contributes to a more robust workforce.

Franchise businesses have played a critical role in our nation's recovery from the economic impacts of the COVID-19 pandemic. As job creators and economic drivers, franchises can help revitalize local economies, generate employment opportunities, and support the overall recovery of our workforce.

My deep concern about the proposed PRO Act and its consequences cannot be overstated. The legislation threatens to undermine the very foundation upon which franchise businesses are built, potentially devastating the livelihoods of thousands of franchisees, and jeopardizing the future of our workforce. For franchisees like myself, the impact could be catastrophic, not only affecting our businesses but also the communities we serve and the employees who depend on us for their livelihoods.

In conclusion, franchise businesses possess the unique ability to address the workforce challenges faced by our nation. It is vital that the House Education & Labor Committee considers policies that support and encourage the growth of franchise businesses while carefully assessing the potential implications of legislation like the PRO Act. By doing so, we can ensure the development of a strong, skilled, and diverse workforce that can drive our nation's economy forward.

Thank you Madam Chair, for holding this hearing and for the invitation to speak on behalf of small business owners everywhere. I look forward to answering any questions you may have.

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Chairwoman FOXX. Thank you, Mr. Akers. Dr. Shierholz, you're recognized for five minutes.

STATEMENT OF DR. HEIDI SHIERHOLZ, PRESIDENT, ECONOMIC POLICY INSTITUTE

Ms. SHIERHOLZ. Chairwoman Foxx, Ranking Member Scott, and Members of the Committee, thank you for the opportunity to testify here today. My name is Heidi Shierholz, I am an economist and President of the Economic Policy Institute. To talk about the State of the economy today, I want to start by backing up to the end of 2020, the end of the Trump administration.

Three-quarters of a year after the start of COVID. So, this is after the initial rush of millions of jobs coming back as businesses that have been locked down were coming back online. By late 2020, the recovery was faltering. We actually lost jobs in December 2020, and we still had a gap in the labor market of 10 million jobs.

At a similar point in the recovery from the Great Recession of 2008 and 2009, Congress chose austerity. Starving the economy of aggregate demand, a dynamic that Republicans in Congress maintained until 2017. The result was an incredibly weak and slow recovery. It took a decade after that recession to get back down to the pre-recession unemployment rate.

This time, however, Congress and President Biden chose a dramatically different path when the recovery was faltering. Additional fiscal support was passed in December 2020, and substantially more was passed in March 2021, with the American Rescue Plan, and the payoff to those choices has been mind-boggling.

We added 12.4 million jobs in the last 25 months. 2021 and 2022 saw the single largest job growth of any 2-year period in U.S. history. In the past year, the unemployment rate has gotten down to 50-year lows, and the prime-age labor force participation rate is now back down to—now back up to where it was before COVID hit.

Further, inflation-adjusted wage growth for low-wage workers was far faster over the last 3 years than at the same point in the recovery from any recession of the last 50 years. These are huge policy accomplishments. Talk about unleashing employment.

One question, however, that often arises is whether our COVID relief and recovery measures, while clearly generating an incredibly fast jobs recovery, also perhaps caused the high inflation of the last 2 years, which has been a major challenge for American families.

The answer to that is a resounding no. The acceleration of inflation was overwhelmingly the result of mammoth shocks to the economy by the pandemic, which caused both a dramatic shift—a dramatic increase in the demand for goods as people shifted spending away from face-to-face services, and toward goods, and huge snarls in precisely those global supply chains that need to function smoothly in order to meet the demand for goods.

And then on top of that, the Russian invasion of Ukraine spiked energy and food prices, and those shocks set off substantial ripple effects throughout the economy, so employers had to raise wages to get and keep the workers that they needed, which is a very good thing, and firms also raised prices opportunistically to boost their profits.

In this recovery, rising profits account for 40 percent of the increase in inflation, whereas in normal times, profits account for about a third that much. Basically, without the strong jobs recovery, and the critical expansions of the safety net created by our relief and recovery measures, the burst of inflation still would have happened, but would have been much more damaging to working families.

Imagine if we had faced that burst of inflation, but with millions of more people out of work, and lower nominal wage growth for those with jobs. It is worth noting that as the labor market normalizes, job growth will slow to more normal levels. Nominal wage growth is already back down to basically where it was pre-recession, but we can lock in some of the gains that workers have experienced through tighter labor markets by enacting policies, like raising the minimum wage, expanding overtime and joint employer protections, strengthening unions, holding employers accountable for labor violations like misclassification and wage theft.

The PRO Act is a crucial reform. The Independent Contractor Rule, being finalized at DOL will provide much needed clarity and reduced misclassification. The final thing I want to say is that stronger labor standards and unions will not only make our economy fair, they will make our economy stronger.

Neo-liberal policies and deregulation of the last 40 years resulted in rising inequality over that period, and much slower overall growth. Spending falls as inequality increases because income is shifted away from low and middle-income workers, who are the ones who have to spend most of what they get on necessities, and toward higher-income workers who have the luxury to save.

Inequality slows growth. Policies that help ensure that our economy works for everyone are the very policies that will make our economy stronger, more resilient and faster growing. Thank you, and I look forward to your questions.

[The prepared statement of Dr. Shierholz follows:]

PREPARED STATEMENT OF HEIDI SHIERHOLZ

Economic Policy Institute

Testimony prepared for the House Committee on Education & the Workforce for a hearing on "Unleashing America's Opportunities for Hiring and Employment"

Heidi Shierholz, Ph.D.
President, Economic Policy Institute
March 28, 2023

Chairwoman Foxx, Ranking Member Scott, and members of the committee, thank you for the opportunity to testify today on the state of the U.S. economy, the labor market, and policy solutions to ensure that the economy works for everyone.

My name is Heidi Shierholz, and I am an economist and the president of the Economic Policy Institute (EPI) in Washington, D.C. EPI is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-wage 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-wage workers, and assesses policies with respect to how well they further those goals. I previously served as Chief Economist at the U.S. Department of Labor during the Obama administration.

Today I will discuss the state of the U.S. labor market, what is behind the current dynamics, and potential threats. I will also provide policy recommendations for continuing the trends of the last two years of increasing employment and improving job quality.

The state of the US economy—and particularly the labor market—is strong

The US economy—and particularly the labor market—is strong. Over the last 25 months, the labor market has added 12.4 million jobs, and the unemployment rate has been below 4% for over a year.[1] Labor force participation has been steadily growing and in the latest month of data, February 2023, it reached its highest point since the pandemic began, and is now less than a percentage point below its pre-COVID level—despite strong downward structural trends stemming from an aging labor force.[2] And strikingly, in contrast to the entire period since the late 1990s, lower-wage workers have posted the strongest wage gains among all groups in this recovery, and, in inflation-adjusted terms, have seen gains that are far faster than they have seen at this point in a business cycle following any other downturn in the past 50 years.[3]

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[1] See "All employees, Total Nonfarm" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=11MUh, and "Unemployment Rate" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=11Fcf

[2] See "Labor Force Participation Rate" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=11Fck

[3] See Gould and DeCourcy (2023), https://www.epi.org/publication/swa-wages-2022/, with specific results highlighted in a later section of this testimony.

This disproportionate boost to wages of the lowest-paid workers stands in stark contrast to how growth was distributed from 2017-2019, the pre-pandemic years of the Trump administration. In those years, wage growth for the 95th percentile of wage earners was more than twice as fast as it was for workers at the 10th percentile.[4] Also in those years, average wage and salary income of all U.S. households grew by roughly 2% per year, while capital gains income grew at almost five times this pace (9% per year).[5] In short, growth between 2017-2019 privileged capital-owners over workers and privileged corporate managers over rank-and-file workers.

It is crucial that we recognize both how we achieved the labor market success of the post 2019-period—success that has generated real wage gains for low-wage workers—and also what the biggest threats are to today's strong labor market. The success was achieved through policy choices that prioritized rapid recovery and investments to make us more resilient in the future. The threats are also policy choices – both those made in the past and those that loom in front of us today.

The source of today's strong labor market: fiscal relief and recovery at scale

The last month in which US economic data was unaffected by the COVID-19 pandemic was February 2020, when the unemployment rate was 3.5%. Twenty-five months later (March 2022) the unemployment rate had essentially returned to this level (hitting 3.6%), where it has largely anchored over the past year.[6] This is a stunningly fast labor market recovery. For comparison, we can look to the last recession and recovery before the COVID-19 crisis. In that business cycle, it took a *full decade* after 2007 to reattain the unemployment rate low that prevailed in that year (4.4%).[7] There are many reasons for the difference in labor market recovery this time versus last time, but a much more-robust fiscal policy response this time around is a primary part of the explanation.

Some have argued that the nature of the COVID-19 shock meant that a full recovery was always going to happen faster this time. There's very little evidence to support that view. In March and April of 2020, as COVID-19 first spread across the United States, 22 million jobs were lost.[8] Aided by the CARES Act passed in April 2020, the first 12 million jobs came back pretty easily over the following six months—businesses that had closed their doors but not gone bankrupt during the months of lockdown simply re-opened. But, job growth slowed in every month between August 2020 and December 2020—and in that last month, employment outright *contracted*.[9]

In other words, the incoming Biden administration inherited an economy nearly 10 million jobs below the February 2020 baseline, and progress in getting these jobs back had not just stalled but gone affirmatively backwards. Betting at that point that things were fine and that the economy was rapidly self-correcting from the COVID-19 shock would have been incredibly unwise.

[4] See Gould (2019): https://www.epi.org/publication/swa-wages-2019/
[5] Author's analysis based on the data on household income distribution compiled by the Congressional Budget Office (CBO): https://www.cbo.gov/system/files/2022-11/58353-supplemental-data.xlsx
[6] See footnote 1.
[7] See "Unemployment Rate" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=11FcX
[8] See "All Employees, Total Nonfarm" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=RmWG
[9] See "All Employees, Total Nonfarm" data retrieved from FRED (2023): https://fred.stlouisfed.org/graph/?g=11Fde

Mistakes made in the past are instructive here. At a similar point in the recovery from the Great Recession of 2008–2009, fiscal policymakers perversely shifted toward austerity and the result was that, as mentioned above, it took a full decade to regain pre-recession labor market health.[10]

This time, however, the Biden administration and Congress chose a dramatically different path when the recovery was faltering. Additional fiscal support was passed in December 2020, and substantially more was passed in March 2021, with the American Rescue Plan (ARP). The payoff to these choices is apparent – 2021 and 2022 saw the single largest job-growth of any two-year period in US history.[11] In the past year, the unemployment rate has hit 50-year lows while labor force participation has risen steadily even as it was facing downward pressure from demographic trends. This is a huge policy accomplishment.

Legislation following the ARP, like the bi-partisan Infrastructure Investment and Jobs Act (IIJA), the CHIPS and Science Act, and the Inflation Reduction Act (IRA), all will come online throughout 2023 and later years, and will provide a macroeconomic insurance policy against downturns in private investment, all while shoring up the nation's economic security and resilience.[12] In short, public investments made during the Biden administration have proven and will continue to prove to be incredibly valuable for boosting living standards and bolstering economic security, both in today's strong economy and in the future.

Challenges and Threats to Maintaining Strong Labor Markets? Inflation and bad policy choices

Despite the extraordinary labor market recovery and the progressive gains it has generated for U.S. families, there remain major challenges, and threats to economic security. Some of these challenges and threats stem from the massive economic shocks imposed by pandemic and war, and some from poor policy decisions, both past and (potentially) future.

The clearest challenge to faster living standards growth for American families today is too-high inflation. This inflation has been the primary impediment keeping the full value of the strong labor market's gains from reaching many.

This acceleration of inflation was overwhelmingly the inevitable result of the mammoth shocks imposed on the U.S. economy by the pandemic and by the Russian invasion of Ukraine. The pandemic led to a historically sharp reallocation of consumer spending away from face-to-face services and toward goods consumption and residential investment. The scale of this reallocation was literally on the order of a wartime mobilization. Simultaneously, the pandemic introduced huge snarls in precisely those global supply chains that need to function smoothly to meet demand for goods and materials used in residential investment. These extreme shocks to both sectoral demand and supply were *the* spark to inflation in 2021. In 2022, the Russian invasion of Ukraine added another shock to energy and food prices. [13]

[10] See Bivens (2011): https://www.epi.org/publication/abandoning_what_works_and_most_other_things_too/ and Bivens (2016): https://www.epi.org/publication/why-is-recovery-taking-so-long-and-who-is-to-blame/
[11] See later section of this testimony for more-detailed comparisons to past periods.
[12] See Hersh (2022): https://www.epi.org/publication/big-steps-in-right-direction-but-much-more-infrastructure-investment-needed/
[13] See Banerjee and Bivens (2022): https://peri.umass.edu/images/BivensPERIInflationConf.pdf

These shocks in turn set off large and long-lived—but steadily dampening—ripple effects throughout the economy, making high inflation stubbornly persistent.[14] Essentially, the pandemic and war shocks to prices sent economic actors scrambling to protect their own real incomes from higher costs.[15] As nonlabor costs rose due to pandemic and war shocks and pushed up prices, employers had to raise wages to get and keep the workers that they needed, and firms raised prices to keep their own profit margins intact (or to opportunistically raise them). In the first 9 quarters of recovery (the period for which we have data), profit margins drove a historically large share of price increases, with profits accounting for over 40% of price increases in the non-financial corporate sector. In normal times, profits account for roughly 13% of prices.[16] This cascade intensified the inflationary effect of the initial shocks of pandemic and war and made them more persistent.

One might have expected—I certainly did—that workers' ability to secure higher nominal wages to protect their real incomes from rising prices would have been almost nil. Recent decades have seen a relentless campaign of policy-driven wage suppression that kept wage growth extremely muted even during times of very low unemployment.[17]

But workers experienced a surprising degree of bargaining power in 2021 and early 2022. Well before the unemployment rate approached its pre-pandemic levels, employers needed to raise wages to attract and retain workers. Most notably, this wage growth occurred in industries where workers typically have the least bargaining power and face the lowest pay—in retail and leisure and hospitality, for example. A key driver of this enhanced bargaining power in 2021 was precisely the tight labor markets generated by the economic recovery, but it was also sustained by unique features of the 2021 and 2022 labor markets—features that look to be quickly fading (for more detail on these unique features of workers' bargaining power in 2021 and 2022, see Bivens (2023)).[18]

The nominal wage acceleration that accompanied the initial shocks and the unusual boost in worker bargaining power in 2021 and 2022 kept inflation higher than it would have been had wage growth not budged at all from its pre-pandemic pace. But even if nominal wage growth had not increased at all, we still would have had a burst of extremely high inflation over the past two years. The reduction in inflation that could have been "bought" by dampening nominal wage growth by engineering higher unemployment rates in 2021 and 2022 would have been small—and the cost of this slightly slower inflation would have been large declines in real incomes for working families.[19] In short, the labor market strength engineered by investments since 2020 did not cause the inflation of the past two years; instead, it protected workers from the inevitable inflationary shock stemming from the pandemic and war.

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[14] On the importance of wage growth – even when it accelerated relative to historic norms – providing a dampening effect on inflation, see Bivens (2022): https://www.epi.org/blog/wage-growth-has-been-dampening-inflation-all-along-and-has-slowed-even-more-recently/

[15] This aspect of "conflict inflation" was recently highlighted by Olivier Blanchard—perhaps the single most well-pedigreed macroeconomist in the world (MIT professor and former chief economist of the International Monetary Fund).

[16] Bivens (2022a) : https://www.epi.org/blog/inflation-minimum-wages-and-profits-protecting-low-wage-workers-from-inflation-means-raising-the-minimum-wage/

[17] On the expectation that workers would be unable to protect their real incomes from inflationary shocks, see Bivens (2022b): https://www.epi.org/blog/u-s-workers-have-already-been-disempowered-in-the-name-of-fighting-inflation-policymakers-should-not-make-it-even-worse-by-raising-interest-rates-too-aggressively/

[18] Bivens (2023): https://prospect.org/economy/2023-01-10-lessons-inflation-federal-reserve-interest-rates/

[19] See Banerjee and Bivens (2022): https://peri.umass.edu/images/BivensPERIInflationConf.pdf

While the past years' inflation was an inevitable result of the exogenous shocks hitting the U.S. (and global) economies, other threats to continued labor market strength stem from poor policy choices – from the past, present, and (potentially) future.

One poor policy choice presently being implemented is a too-aggressive attempt to pull down inflation by reducing aggregate demand (overall spending in the economy from households, businesses and governments). The most obvious manifestation of this is the steep interest rate increases undertaken by the Federal Reserve in 2022 and earlier this year. These attempts misdiagnose inflation as mostly a signal that the economy is "overheating" in macroeconomic terms, when in fact inflation has mostly been driven by the global shocks to specific sectors and the associated ripple effects. Further, these efforts to rapidly slow aggregate demand growth put too little faith in clear evidence that the key *potential* drivers of inflation are already rapidly reversing – particularly housing price inflation and nominal wage growth.[20] In short, inflation looks set to normalize even while unemployment remains very low, *unless* aggressive efforts to further cool aggregate demand growth sacrifices this low unemployment.

A related threat concerns recent banking failures. The interest rate increases undertaken by the Federal Reserve over the past year have introduced some pressure on banks. This pressure *should* be eminently manageable by well-run banks. Crucially, in the longer-run, a higher level of interest rates should be extremely favorable for bank profitability—it would seem odd indeed that banks would systematically struggle to negotiate the move to a regime that is more favorable for their profits.[21]

Yet a number of prominent banks have struggled—or even required FDIC takeover—in recent weeks. These banks have been precisely those complicit in contributing to a key past policy error by lobbying to have regulations passed under Dodd-Frank in 2010 rolled back for banks that are smaller than "global systematically important banks" (GSIB), but may still be quite large. These lobbying efforts bore fruit when a Republican-led Congress (with a small but not trivial number of Democratic lawmakers joining them) passed the Economic Growth, Regulatory Relief and Consumer Protection Act (EGRRCP) in 2018. Among other changes, EGRRCP altered the criteria used to determine which banks would be subject to the *enhanced prudential regulations* instituted under Dodd-Frank, raising the asset threshold which triggered this enhanced regulation from $50 billion to $250 billion. Compounding the bad effects of these legislative rollbacks, Trump administration appointees of the Federal Reserve (particularly Randall Quarles as Vice-Chair of Supervision) led an even more-sweeping rollback of prudential standards used by the Fed in their supervision of banks.[22]

The distress in the banking sector today, which threatens continued strong labor market health, is a completely predictable—and predicted—outcome of this regulatory rollback.

Finally, by far the biggest threat to continued strong labor market outcomes is a looming future policy catastrophe—the failure to raise the debt ceiling. If one is even the slightest bit worried about what the

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[20] See Bivens (2023): https://www.epi.org/blog/the-fed-should-stand-pat-on-further-interest-rate-hikes-at-this-weeks-meeting-inflation-is-easing-even-as-the-labor-market-remains-strong/
[21] On bank profitability being aided by higher interest rates, see Borio et al. (2015): https://www.bis.org/publ/work514.htm
[22] For a prescient critique of the Fed's decision to loosen prudential standards on this class of banks, see Brainard (2018): https://www.federalreserve.gov/newsevents/pressreleases/brainard-statement-20181031.htm

failures of Silicon Valley Bank or Signature Bank have done to credit market functioning and continued growth, then one should be terrified about the consequences of even a short period of default. Many members of Congress have proclaimed themselves deeply concerned about the health of community banks in this country and what the consequences of federal policy are for these institutions. A short period of federal default on its spending obligations would be ruinous for these community banks—and for the wider economy.

Given how apocalyptic a scenario actual default would be, some might miss the extraordinary damage that could be caused by a deal that averts default only at the expense of steep spending cuts. In 2011, a Republican-led Congress demanded such spending cuts as a condition for raising the debt limit. The resulting deal—largely codified in the Budget Control Act (BCA)—led to federal fiscal policy dragging heavily on growth for the next 5 years.[23] This spending austerity in turn led directly to the post-2010 recovery being the slowest on historical record. This austerity was maintained by Republicans in Congress until 2017. The damage that this spending austerity did to economic performance is highlighted by the fact that as soon as Republicans had control of the Presidency in 2017—and hence would be graded by voters on the economy's performance—they immediately rolled back the spending cuts in the BCA. This extremely under-appreciated fiscal stimulus in 2017 and 2018 measurably improved the economy.[24]

There is a good-faith debate to be had about the nation's fiscal health and measures to reduce the debt to GDP ratio in the future. But this debate has nothing to do with the inarguable proposition that allowing the statutory (and completely arbitrary) debt limit to bind the nation's ability to meet its obligations would be a guaranteed—and wholly self-inflicted—crisis.

Documenting the strength of the labor market

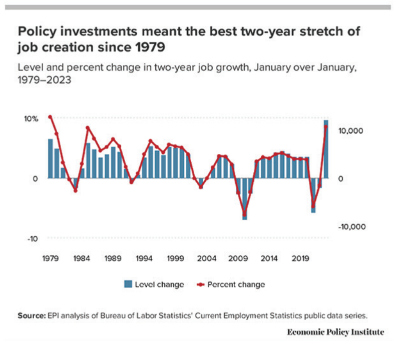
This section provides additional detail on the strength of the U.S. labor market today. As mentioned above, the stunningly fast recovery from the deep pandemic recession was driven by relief and recovery measures at the scale of the problem.[25] **Figure A** shows that the labor market added 12.1 million jobs between January 2021 and January 2023, over 6 million jobs per year on average. In raw numbers, this is by far the fast two-year span of job-growth in post World War II history. In percentage terms—i.e., scaled to the size of the workforce—these two years of job growth were the strongest since 1979. It's useful to note that job-growth before 2000 was consistently buoyed by strong *structural* trends – both fast growth in the working-age population and the steady increase in women's labor force participation rates. Since 2000, these structural trends boosting job-growth has essentially stagnated, making recent job growth performance even more extraordinary.

As also noted above, two very different fiscal policy paths were pursued in the aftermath of the Great Recession and in the aftermath of the covid recession. **Figure B** provides one picture of how those two policy paths played out in the labor market. In dark blue, we see that it took over six years before

[23] See footnote 10.
[24] On this underappreciated fiscal stimulus stemming from the BCA rollbacks, see Bivens (2018): https://www.epi.org/blog/the-boom-of-2018-tells-us-that-fiscal-stimulus-works-but-that-the-gop-has-only-used-it-when-it-helps-their-re-election-not-when-it-helps-typical-families/
[25] See Gould and Shierholz (2022): https://www.cnn.com/2022/03/03/perspectives/jobs-labor-market-stimulus-economy/index.html

private-sector employment returned to pre-pandemic levels, whereas it took just over two years to return to pre-covid employment levels following the covid recession.

Figure A



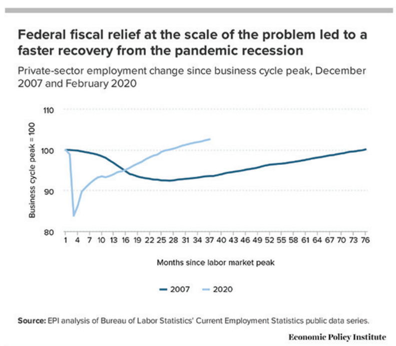
Policy investments meant the best two-year stretch of job creation since 1979

Level and percent change in two-year job growth, January over January, 1979–2023

Source: EPI analysis of Bureau of Labor Statistics' Current Employment Statistics public data series.

Economic Policy Institute

Figure B



Federal fiscal relief at the scale of the problem led to a faster recovery from the pandemic recession

Private-sector employment change since business cycle peak, December 2007 and February 2020

Source: EPI analysis of Bureau of Labor Statistics' Current Employment Statistics public data series.

Economic Policy Institute

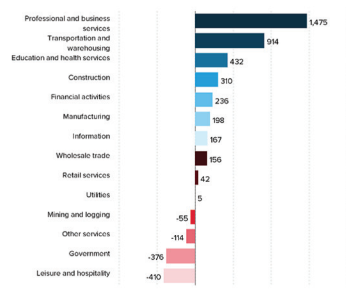
The different outcomes between today's strong recovery and the anemic recovery from the Great Recession is even more pronounced when we look at the unemployment rate and the prime-age employment to population ratio. The unemployment rate is currently hovering near an historic low. In January it hit 3.4%, its lowest rate since 1969. As mentioned above, the unemployment rate got back to roughly pre-pandemic levels about two years following the pandemic shock, whereas following the Great Recession, it took about ten years for the unemployment rate to recover.[26] Similarly, the share of the population 25-54 years old with a job—the prime working age employment to population ratio—is now 80.5%, exactly where it was the month before the pandemic began. Following the past recession, it took about *twelve years* to return to pre-Great Recession levels.[27]

The private-sector jobs recovery has been strong across the board. Of all major industries, leisure and hospitality experienced the largest job losses by far during the covid recession, and continues to experience the largest shortfall relative to pre-pandemic levels. However, month after month, jobs are added in this sector and its shortfall continues to narrow, now down to just over 400,000 jobs below pre-pandemic levels (as shown in **Figure C**).

Figure C

Employment change by industry since February 2020

All employees (thousands), seasonally adjusted, February 2023



Source: Bureau of Labor Statistics' (BLS) Current Employment Statistics, Establishment Survey (CES) public data series.

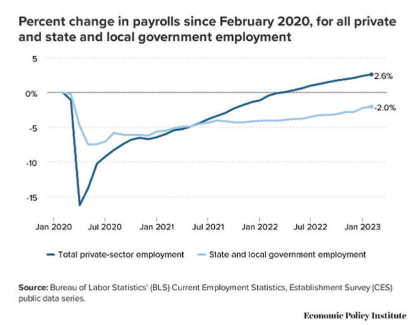
Economic Policy Institute

[26] See Economic Policy Institute (2023): https://www.epi.org/chart/economic-indicators-jobs-day-unemployment-rate-1948-2017-2/

[27] See Economic Policy Institute (2023): https://www.epi.org/chart/jobs-day-employment-to-population-ratio-of-workers-ages-25-54-1989-2017-5-3/

While the private sector experienced a much larger drop in employment than the public sector, **Figure D** shows that it also experienced a strong bounce back due to large policy interventions, as described above. The public-sector—particularly state and local education employment—has lagged far behind the tremendous growth in private-sector employment. Private-sector employment is 2.6% above pre-pandemic levels, while state and local government is still down 2.0%. In February 2023, there were 409,000 fewer state and local government workers than there were pre-pandemic, with roughly two-thirds of that shortfall in state and local education, largely public K-12. A large part of this is an issue of recruiting and retention on the part of state and local governments that have failed to use available resource to invest in raising wages enough to attract and retain workers in a highly competitive labor market (roughly one-third of public sector workers are paid less than $20 an hour). Vacancies in the public sector workforce mean fewer teachers and reduced access to public services and programs available to communities. State and local governments can and should be using the resources at their disposal to raise pay and refill those jobs.

Figure D



Because of the broad impact of structural racism on labor market outcomes, Black and brown workers are disproportionately concentrated in low-wage jobs. Wage gains for low wage workers in this recovery, combined with strengthened safety net relief targeted towards lower-income families, reached Black and brown workers and families much more quickly than in previous economic recoveries, and helped to mitigate some of the most disastrous recession outcomes for workers of color.[28] For example, today, the Black unemployment rate is 5.7%, and it has hovered around that level since November 2022, less than three years from the start of the covid recession. In the aftermath of the Great Recession, it took *more than 11 years* for the Black unemployment rate to get down to 5.7%.

[28] See Wilson and Maye (2022): https://www.epi.org/blog/the-labor-market-recovery-and-pandemic-relief-measures-lifted-black-and-brown-workers-and-families-in-2021/

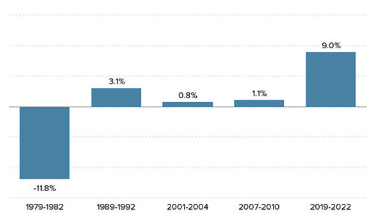
However, it is important to note that racial inequities in wages, employment, household income, and other economic indicators persist. Today, the nationwide Black-white unemployment ratio still sits at nearly 2-to-1.

As mentioned above, low-wage workers experienced historically fast real wage growth between 2019 and 2022.[29] The 10th percentile real hourly wage grew 9.0% over the three-year period. This rapid real wage growth at the lower end of the wage distribution was significantly faster than in any other business cycle peak since at least 1979. **Figure E** compares growth in the 10th percentile real (inflation-adjusted) wage in the recovery from the pandemic recession to the recoveries from the prior four recessions. Real wage growth for low-wage workers was faster over the last three years than we've seen at the same points in the recoveries from the recessions of the last 50 years. And even though their wage growth was slower than for those at the bottom, middle-wage workers also experienced faster wage growth than in the first three years of any of these business cycles. Again, tight labor markets largely protected workers' wages from the global inflation shocks set off by the pandemic and Russian invasion of Ukraine.

Figure E

Low-wage workers have experienced stronger-than-usual wage growth in the pandemic business cycle

Real wage changes at the 10th percentile, three years from prior peak compared with last four business cycles, 1979–2022



Source: EPI analysis of the Current Population Survey Outgoing Rotation Group microdata, EPI Current Population Survey Extracts, Version 1.0.37 (2023), https://microdata.epi.org.

Economic Policy Institute

Strengthening unions and labor protections could solidify the economic recovery

Arguably the most important bargaining tool that any individual, nonunionized worker has is their ability to be mobile—to leave one job and look for another that is better. The "tighter" or "hotter" the labor market is, the more options workers have to find jobs that may have better pay, schedules, training opportunities, or other benefits, because employers have to compete to attract and retain them. The

[29] See Gould and DeCourcy (2023): https://www.epi.org/publication/swa-wages-2022/

economic recovery has helped to drive a tighter labor market, but some of those effects are weakening as the labor market is beginning to return to more normal levels of growth from the incredibly strong pace of the last two years. As the market "cools," unions can help to lock in some of the gains that workers have enjoyed from a tighter labor market as the pandemic recovery continues. This is especially true for workers who are more likely to be left out in the cold in a weak labor market, such as Black, Hispanic, and women workers, who are overrepresented in lower-wage jobs.

Unions improve job quality and provide protection to workers from employer exploitation, from the negative effects of market concentration, and from other impacts of uncompetitive labor markets. Public support for unions reached a more-than-50-year high—71 percent—in 2022.[30] However, due to eroded labor laws, it's still incredibly difficult for most workers to join unions.[31] But despite the legal barriers and fierce opposition from employers, between October 2021 and September 2022, the National Labor Relations Board saw a 53 percent increase in union election petitions, the highest single-year increase since fiscal year 2016.[32] Further, the number of workers in unions is on the rise, with 200,000 more workers joining unions between 2021 and 2022, with the majority of that growth driven by workers of color.

Unions are the most effective way for workers to ensure economic gains and fair workplaces. EPI's analysis of the wages and employment situations of unions and non-union workers in 2022 found that:

- Workers covered by union contract earns **10.2% more** in wages on average than a peer with similar education, occupation, and experience in a nonunionized workplace in the same sector.
- Hourly wages for women represented by a union are **4.7% higher** on average than for nonunionized women with comparable characteristics.

Unions also help to close gender and racial wage gaps:

- Black workers represented by a union are paid **13.1% more** than their nonunionized Black peers, and Hispanic workers represented by a union are paid **18.8% more** than their nonunionized Hispanic peers.

And unions also provide workers with better benefits:

- Union workers are far more likely to be covered by employer-provided health insurance: More than nine in 10 workers covered by a union contract (95%) have access to employer-sponsored health benefits, compared with just 69% of nonunion workers.
- Union workers also have greater access to paid sick days: More than nine in 10 workers—92%—covered by a union contract have access to paid sick days, compared with 77% of nonunion workers.
- Unions also help to reduce turnover at firms, improve employee retention and morale, and boost productivity.

[30] See McCarthy (2022): https://news.gallup.com/poll/398303/approval-labor-unions-highest-point-1965.aspx
[31] See McNicholas et al. (2019): https://www.epi.org/publication/unlawful-employer-opposition-to-union-election-campaigns/
[32] See Shierholz, Poydock, and McNicholas (2023): https://www.epi.org/publication/unionization-2022/

Policy Recommendations & Conclusion

As mentioned above, one of the most important things in the near term for the health of the U.S. economy is for the Federal Reserve to prioritize low unemployment. Policymakers should also continue to use fiscal policy levers to make much-needed public investments and create good jobs. On the other hand, one of the worst actions policymakers could take would be to allow the U.S. government to breach the debt limit and default on our payment obligations, or to make harmful and wholly unnecessary cuts in federal spending as part of a deal to keep that from happening. Both options come with a high risk of causing a recession, and would be devastating for American workers and businesses.

Finally, it is crucial to note that "unleashing" employers through deregulation is a surefire path to reduce good opportunities for the U.S. workforce and to make our economy weaker, slower-growing, and less resilient. Instead, policymakers should:

- Raise the minimum wage and expand the right to overtime pay.
- Create a level playing field for employers by cracking down on misclassification and wage theft, and strengthen enforcement of wage and hour, workplace safety, and anti-discrimination laws.
- Strengthen the rights of workers to organize, join unions, and collectively bargain, as outlined in the PRO Act.
- Expand federal funding for apprenticeship and other workforce training programs to expand pathways to high-paying, good jobs.

Thank you, and I look forward to your questions.

Chairwoman FOXX. Thank you. And now Stephen Moore is recognized for five minutes.

STATEMENT OF MR. STEPHEN MOORE, DISTINGUISHED FELLOW IN ECONOMICS, THE HERITAGE FOUNDATION, WASHINGTON, DC

Mr. MOORE. Thank you, Madam Chairman, Chairwoman. It is a great honor to be here. The big question for the American economy right now is where are the American workers? Where are the workers? If you ask any small businessman or woman, I bet every one of you in your districts are facing the same issue. Businesses are saying that they're having a very difficult time getting workers back on the job.

Heidi is right that it's a strong jobs market right now. The big problem is finding the workers to fill those jobs. Why are Americans not in the workforce at the rate that they have traditionally been? I would make two arguments. No. 1, real wages have declined very sharply in the last 2 years, and this is of course a result of the massive increase in inflation that hit 9.2 percent.

So just to put this in perspective, the average worker in America, since Biden came into office, has lost somewhere in the neighborhood of $3,500 to $4,000 in annual income. That means work isn't paying because you know, even though wages are up nominally, as Heidi was saying, in real terms, people's purchasing power has gotten killed. And that's the reason you're seeing so much economic pessimism around the country. People are feeling it every day.

The other problem is we're paying too much for people not to work, and I hope that this Committee will address that as one of the number-one problems in the country. In other words, we are not making work pay, we're making not working pay with the welfare benefits that have been provided.

So quickly, one of the big mistakes that we made during COVID that led to—that accelerated the collapse in jobs, obviously shutting down the economy as we did, especially blue states, turned out to be one of the greatest catastrophes, I think in American history economically. It didn't have health benefits, but it sure did destroy small businesses and jobs for workers.

What's happened since if you look at my testimony. If you look at this figure on page 3 if you have it in front of you. And this has been persistent for the last, you know, 30 months. The blue states that locked down their economies had persistently higher unemployment than the red states that remained open. It's also true that these blue states like New York and Connecticut and California, provide much, much higher benefits to people for not working than red states do, and that's caused the unemployment rate problem to be worse.

It's frustrating to me because you know, when you look at 2020, the beginning of 2020, the United States had probably the best—in many ways, the best economy ever, ever in the history of this country. We had the lowest unemployment rate for every group, for blacks, Hispanics, Asian, single mothers, we had the lowest poverty rate for blacks, Hispanics. Every demographic group, and of course we had very rapid rises in income.

Subsequently, that has reversed, and so you're seeing these declines in income that are making working not pay. Now, a couple of other things that I'd like to point out quickly. One is we have to do welfare reform. We have to get back to the reforms that we put in place in 1996 under a Democratic President, Bill Clinton, and a republican Congress. It was headed by Newt Gingrich as the Speaker of the House.

One of the most successful programs in the last 50 years in terms of social policy changes was that bipartisan welfare reform. And at the heart of that reform was two things. One, time limits on how long people could get welfare. We're not saying get rid of the social net. We're a wealthy country, absolutely safety net for people, but it should not be a way of life. It should be a temporary assistance program.

So, we time-limited these programs, and the other thing that is absolutely critical, every single welfare payment program that you administer at the Federal level. Every program should require work or training. It was a huge success, and the benefits of welfare reform exceeded anybody's expectations. If you look at what happened after 1996, we saw the most dramatic decline in welfare—in people on welfare in the history of the welfare State.

After welfare reform happened, what happened to those people? They got into the workforce. What happened to them when they got in the workforce, their earnings rose. It was a tremendous success. The child poverty rate after welfare reform was lower than it had ever been since the 1960's.

So, huge, huge benefits across the board from welfare reform, not just for the overall economy, but the people who are on welfare because there is dignity in work, and as there is a lot of economic success on that.

Three quick recommendations other than welfare reform, just for you all to think about. No. 1, we need more legal immigrants in this country. We should be increasing legal immigrant numbers very significantly. These are people who will enter the workforce. Immigrants have very high labor force participation rates.

Our immigration levels have—I'm talking about legal. We need to increase that. No. 2, something to think about. You know there's an old saying that age 70 is the new 50. If you look at the social security program, there's a flaw in that program. Benefits for people who continue to work after 70 are not actually—so people are being punished in terms of working after the age of 70. We have to correct that.

So, if somebody, you know, works to the age of 75 or 78, their benefits for their lifetime should be adjusted, so they're not reduced. Because you know what? We're an aging population. We need older people to be working. And by the way, people who work longer when they're old have higher life expectancies.

And then finally, don't over tax investment. I know—just one quick point. The Biden tax plan, if you were to put that calamity into effect, the tax rate on investment would go to 80 percent. Who is going to invest in a small business at an 80 percent tax rate? OK. Thank you.

[The prepared statement of Mr. Moore follows:]

PREPARED STATEMENT OF STEPHEN MOORE

Testimony Before the House Committee on Education and the Workforce

"Unleashing America's Opportunities for Hiring and Employment"

By

Stephen Moore

Senior Fellow in Economics at the Heritage Foundation

March 28, 2023

Chairman Foxx and distinguished members of the Committee thank you for the opportunity to testify on this issue of major importance to the country: How do we get American workers back in to the labor force. In compliance with Truth in Testimony, I attest that neither I nor my employer receive any funding form the United States federal government.

One of the great conundrums of the current U.S. economy is that some two to four million American workers are demographically missing from the workforce even two years after the Covid crisis has ended. That is to say, if we had the same labor force participation rate of working age Americans today as we did in January of 2020 before Covid hit these shores, we would have some two to four million more Americans working depending on the labor force gauge used.

This is a problem today for the overall U.S. economy because there are roughly 10 million job openings in the United States with only about five million Americans looking for jobs, and thus even if every American not employed and looking for a job filled a position, there would still be nearly five million job openings. This problem would be lessened greatly if the Americans who could be – and I would argue SHOULD be working – and are not.

The decline in the workforce has extreme negative economic effects. It reduces national output, it increases payments of government benefits, and it reduces American competitiveness while raising prices of goods and services -for example construction costs. If the goal is to get economic growth up to 3% or so from the current path of growth of about 1.6%, we will need to dramatically increase the number of Americans who are working.

The absence of work is also bad for those who are not working and for their families and communities. Work is highly associated with better health, longer life expectancy, happiness, and improvements in family conditions. Children and spouse of someone who is working are better off. Divorce rates and child abuse are higher among families with at least one working spouse than households with no one working.

There is dignity and self-worth from working.

There are myriad reasons why the labor force participation rate has fallen – especially among working age men. These include early retirement, fear of Covid, disability, the worsening skills deficit, the wealth effect from the massive increase in asset values, such as stocks and homes, over the past four decades, which has enabled millions of Americans an amount of wealth so that they no longer have to work because of their financial situation.

Most of these factors are out of control of Congress and public policy. But my own research as well as the findings of my colleagues at the Heritage Foundation and the Committee to Unleash Prosperity finds a very high connection to the decline in the workforce and government benefits paid to those who don't work. Washington continues to pay many millions of Americans roughly equal to, or in some cases MORE money for not working than working.

This was a major problem through 2021.

Our study at the Committee to Unleash Prosperity co-authored with Casey Mulligan of the University of Chicago, and Heritage economist E.J. Antoni found:

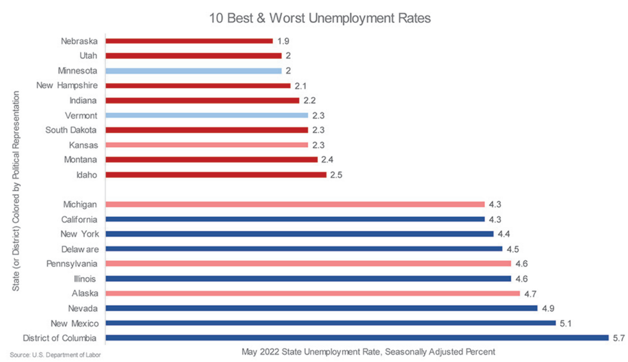
Because of the $300-a-week bonus unemployment benefits enacted in March 2021, along with other expansions of welfare benefits and cash payments unrelated to work:

• In 21 states and DC, households can receive wage equivalent of $25 an hour in benefits with no one working.

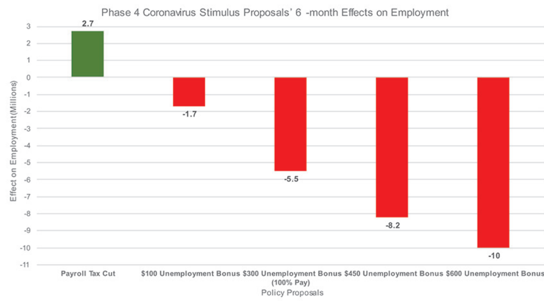
• In 19 states, benefits are equivalent to $100,000 a year in salary for a family of four with two unemployed parents.

• In all but two of the blue states, $300 Supplemental Unemployment Insurance benefits plus other welfare pay more than the wage equivalent of a $15 minimum wage.

We found that blue states with high unemployment benefits had unemployment rates about two percentage points HIGHER than red states that immediately ended the supplemental $600 and $300 a month Unemployment benefits. These higher unemployment rates in blue states persist to this day.



One major mistake during Covid was Congress's decision to raise the unemployment benefits rather than cutting the payroll tax. The heroes of Covid were the nurses, doctors, trash collectors, construction workers, grocery store clerks, delivery people, truck drivers, and so on who continued to work during Covid, keeping us fed, healthy, and providing our basic necessities during the crisis. Instead of rewarding the people who DID continue to work, we foolishly did exactly the opposite and rewarded people with higher government payments for not working. As the chart below shows, we would have had about six to eight million more Americans working if we had cut the payroll tax rather than offered up to $600 a month additional payments for not working.



Our 2021 study estimated that during the COVID lockdowns and with supplemental unemployment benefits of up to $600 a month, food stamp expansions, child tax credit payments, and other special Covid-related benefits to families without anyone working could exceed $120,000 in many states. Those extra benefits had a highly negative effect on labor force participation, particularly in the states with the highest benefits after lockdowns were lifted.

The good news is that supplemental unemployment benefits and an array of other federal welfare programs that were expanded during Covid and paid people not to work, such as the child credit, have mostly expired. But we are STILL paying Americans NOT to work through dozens of other federal programs.

Our latest study finds that existing unemployment benefits and the dramatic recent expansion of ObamaCare subsidies, a spouse would have to earn more than $80,000 a year from a 40 hour a week job to have the same after-tax income as certain families with two unemployed spouses receiving government benefits. In these states, working 40 hours a week and earning $20 an hour would mean a slight REDUCTION in income compared to two parents receiving unemployment benefits and health care subsidies.

This study also finds:

- In 24 states, unemployment benefits and ACA subsidies for a family of four with both parents not working (and collecting UI) are the annualized equivalent of at least the national median household income.

- In 3 states, unemployment benefits and ACA subsidies for a family of four with both parents not working are the annualized equivalent of a head of household earning at least an income of $100,000 .

- In 14 states, normal unemployment benefits and ACA subsidies are the equivalent to a head of household earning $80,000 in salary, plus health insurance benefits.
- This is a higher wage than is earned by the median secondary school teacher, electrician, trucker, machinist, and many other jobs.

- A family of four with income over $227,000 qualifies for ACA subsidies in all states and families earning over $300,000 a year still qualify for ACA subsidies in 40 states and DC.

Fig. 1: Highest Benefit States for Not Working and Median Income Plus Benefits for Selected Occupations

State/Occupation	Earned Income Equivalent
Washington	$122,653
Massachusetts	$117,063
New Jersey	$108,857
Minnesota	$98,915
Montana	$95,265
Hawaii	$91,757
Colorado	$91,281
Oregon	$86,454
Rhode Island	$85,605
Utah	$84,751
North Dakota	$83,537
Pennsylvania	$82,888
Connecticut	$82,809
Kentucky	$80,979
Wyoming	$79,294
Illinois	$79,199
Texas	$73,977
Kansas	$73,665
Iowa	$73,455
West Virginia	$73,031
Oklahoma	$72,936
South Dakota	$72,095
Maine	$71,757
California	$71,063
Median Household Income	$100,372
Median Secondary School Teacher Salary	$87,661
Median Construction & Building Inspector Salary	$87,406
Median Electrician Salary	$85,137

Median Firefighter salary	$71,893
Median Heavy Haul Trucker Salary	$68,504
Median Machinist Salary	$67,979

I am not against "safety net programs" that are designed to keep families out of poverty.

But the expansion of assistance, especially in subsidized health insurance to families with children and no parents working, can mean that families can earn as much or more income from receiving government assistance than the median household does from working. Unemployment insurance benefits are time limited, but for the period when the benefits are provided, returning to work may not pay for many households.

Fig. 4: Salary and Wage Equivalent of Maximum Unemployment Insurance Benefits and ACA Subsidies, Annualized Basis

Two Unemployed Parents with Two Dependent Minor Children[1]

State	Earned Income Equivalent	Hourly Wage Equivalent
Washington	$122,653	$31
Massachusetts	$117,063	$29
New Jersey	$108,857	$27
Minnesota	$98,915	$25
Montana	$95,265	$24
Hawaii	$91,757	$23
Colorado	$91,281	$23
Oregon	$86,454	$22
Rhode Island	$85,605	$21
Utah	$84,751	$21
North Dakota	$83,537	$21
Pennsylvania	$82,888	$21
Connecticut	$82,809	$21
Kentucky	$80,979	$20
Wyoming	$79,294	$20
Illinois	$79,199	$20
Texas	$73,977	$18
Kansas	$73,665	$18
Iowa	$73,455	$18
West Virginia	$73,031	$18
Oklahoma	$72,936	$18
South Dakota	$72,095	$18

[1] The parents are aged 60 and the children are 15 and 17 years old. Only half of the ACA subsidies are counted.

Maine	$71,757	$18
California	$71,063	$18
New Mexico	$69,501	$17
Vermont	$69,384	$17
Nevada	$69,185	$17
Nebraska	$69,035	$17
Ohio	$66,506	$17
Idaho	$64,435	$16
New York	$63,127	$16
Alaska	$62,408	$16
Delaware	$60,875	$15
Arkansas	$60,758	$15
District of Columbia	$60,113	$15
Virginia	$57,744	$14
Maryland	$56,178	$14
New Hampshire	$55,210	$14
Indiana	$54,980	$14
Missouri	$52,795	$13
Wisconsin	$51,974	$13
Georgia	$51,749	$13
North Carolina	$51,352	$13
South Carolina	$51,346	$13
Alabama	$51,304	$13
Michigan	$50,177	$13
Louisiana	$44,609	$11
Arizona	$44,271	$11
Tennessee	$43,244	$11
Florida	$43,036	$11
Mississippi	$37,486	$9

Welfare Reform is Urgently Needed – Immediately

In 1996 Congress enacted the most comprehensive and pro-growth welfare reforms in American history. This was a bipartisan bill enacted by a Republican congress and signed into law by Democratic president Bill Clinton. The backbone of those reforms was the combination of strict work/and skills development requirements for employable adults receiving benefits and time limits on receiving benefits.

Here were the results according to Brookings Institute scholar and one of the chief architects of that bill, Ron Haskins.

"If the 1996 reforms had their intended effect of reducing welfare dependency, a leading indicator would be a declining welfare caseload. Caseloads began declining in 1994 [when states began enacting reforms] and declined more rapidly after the federal legislation was enacted. Between 1994 and 2004 the caseloads declined by 60%. The number of families receiving cash benefits hit the lowest level since 1969, and the percentage of children on welfare was the lowest since 1967.

Although caseload decline is an important outcome measure of the 1996 reforms, how families fare after welfare reform is an important measure as well. The next important measure is whether mothers leaving welfare were working. There is an abundance of evidence on this question. One line of evidence comes from more than 40 states studies conducted since 1996 of adults who left welfare. On average these studies show that a little less than 60% of the adults leaving welfare were employed at any given moment and that over a period of several months or longer about 70% HELD AT LEAST ONE JOB. (emphasis added)."

From 1993 to 2000 the portion of single mothers who were employed grew from 58 to 75%, an increase of almost 30 percent. Even more pertinent to assessing the effects of welfare reform, employment among never-married mothers , most of whom join the welfare rolls within a year or two of giving birth, grew from 44% to 66%. Employment changes in this short a period of time are unprecedented in Census Bureau records.

Although child poverty rate dropped during the 1960s and the early 1970s, after that it drifted upward. However, between 1994 and 2000, child poverty fell every year and reached levels not seen since 1978.. By 2000, the poverty rate of black children hit the lowest level ever recorded. The increase in total income [from work] accounted for this improvement.

The pattern [from welfare reform] is clear, earnings up, welfare down."

Conclusions

A key policy question these days that has befuddled federal lawmakers is why so many millions of Americans have not returned to the workplace in the post-Covid era. How do we make work pay?

There are many structural reforms that are necessary in our economy – from budget and tax policy reforms, to an expanded legal immigration system, to better educational opportunities, to improved and expanded skills development programs, to teaching young people the value of work, to incentivizing older Americans to work more years – but the one change that Congress could enact NOW, that would immediately fill jobs and increase labor force participation of employable and non-disabled adults would be to STOP PAYING AMERICANS NOT TO WORK.

All government payment programs should have attached a legally-enforced work requirement for all non-disabled adults. As an exchange for benefits Americans should be required to be working or in a skills development program. Benefits should be temporary so that welfare does not become a way of life.

Furthermore, when the economy goes into recession, instead of raising unemployment benefits to those who are not working, we should honor work by reducing payroll taxes for those who are contributing to our economy.

Thank you for the honor to testify before the Education and the Workforce Committee.

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Chairwoman FOXX. Under Committee Rule 9(a) we'll now question witnesses under the five-minute rule. I'll wait to ask my questions and therefore recognize Mr. Walberg from Michigan for five minutes.

Mr. WALBERG. I thank the Madam Chairwoman, and thanks for the panel for being here today. And I would say to Mr. Moore that welfare reform—I'm over here.

Mr. MOORE. Oh sorry, I couldn't see you.

Mr. WALBERG. Welfare reform began in Michigan, under Engler.

Mr. MOORE. It did.

Mr. WALBERG. As an example, and it worked. Sadly, it's gone today.

Mr. MOORE. I believe John Engler was the Governor at that time.

Mr. WALBERG. Yes. I would like to discuss workforce challenges. Unfortunately, Michigan recently repealed its right to work law. The first State to do that in more than a half a century to take such action. In a recent town hall, I spoke with an independent electrical contractor who expressed her concern over this misguided approach, which will increase costs, and limit opportunity.

Unfortunately, some here in Washington have proposed legislation that would nullify right-to-work laws in states all across the country. Mr. Spear, can you please expand a bit on how trucking industry uses the independent contractor business model, and why it's worked so well for your members, and the workers who willingly choose this professional path?

And then second, could you please describe the impact legislation like the PRO Act would have on independent contractors in the trucking industry?

Mr. SPEAR. Absolutely Congressman. I think the key word that you used with regards to independent contractors is choice. They choose that path for whatever reason. It could be seasonal work, had another business on the side, whatever the reason may be that's their decision, I think legislation starting with the PRO Act to the NLRA, you know, we're seeing AB5 in California, remove that choice.

And this is a 90-year-old supportive business model in case law, and we want to remove that choice. Why? Because I think union rates have been cut in half since 1983. We were at 20.1 public and private unions, we're down to 10.1 percent of the workforce, public and private unions today.

And they want to bolster membership. They want to bolster dues. But you don't change the law to channel more people into unions. You want to belong to a union, belong to a union.

Mr. WALBERG. Right.

Mr. SPEAR. But you should also have the right not to belong to a union. And those laws have existed since 1935. So, you know, I look at this assault on a 90-year-old business model, like independent contractors. It would be ridiculously impactful on our industry. We're already short 78,000 drivers. This is 350,000 independent contractors that chose that path. No one is forcing them to do it, they chose it. Talk to them.

Go out and talk to the actual independent contractors and ask them is anybody forcing you to be in this category, so the employer can avoid paying you more, or avoid benefits? The answer is a resounding no. And for any abuse, we have laws in place for over nine decades to deal with that.

The PRO Act would remove beyond the independent contractor legislation and regulations, the PRO Act would be an all-out assault, not just on independent contractors, but on states? right to work laws. Your State just revoked it. That's their decision. I don't agree with that.

Any State has the right to put that in place. The PRO Act would eliminate half of the states in this country that have the right to work laws on the books.

Mr. WALBERG. And it's not as we found in Michigan, it wasn't the workers, or the independent contractors asking for the right-to-work law to be taken out, it was the union bosses, and the legislature gave in there. Thanks.

Let me move on. Changing gears, franchises support nearly 8 and a half million direct jobs in the U.S. economy. In Michigan alone, franchises support over 235,000 employees. Mr. Akers, can you tell us about the FTC franchise rule, and how it would continue to foster small business creation in the franchise space?

Mr. AKERS. Yes. Unfortunately, what those type of rules do is they turn me into a general manager, as opposed to being an entrepreneur. They put so much impact back on the corporate group, so everybody ends up working for a large corporation, rather than an independent person like myself, an entrepreneur.

This takes away everything that I've worked my life for to try and build, and by the way, as with many things that come out of these kinds of regulations, we take better care of our employees than most of the rules end up putting in place anyhow right now today. We don't need all of those kinds of things.

So, what that does is usurp the franchise model, which is one of the largest drivers of small business in the economy in the country today and puts us in a situation where we become employees instead of entrepreneurs. Thank you for your question.

Mr. WALBERG. My time has expired. Thank you. I yield back.

Chairwoman FOXX. Thank you very much, Mr. Walberg. I now recognize Mr. Takano from California for five minutes.

Mr. TAKANO. Thank you. Sorry, we're having trouble with it, as you know the technology here. Great. It is abundantly clear that the Biden administration inherited an economy in dire straits. As Republicans vocalize falsehoods about what has put the American economy back on track, the policies Democrats pursued speak for themselves, even despite the unique challenges global inflation has presented.

As we discussed policies Democrats can pursue to help, it is imperative that we look at ways in which we can still improve. The Fair Labor Standards Act established an overtime compensation requirement for certain employees when they worked more than 40 hours, and the Labor Secretary has the authority to create the parameters relating to the white-collar exemption, meaning that certain professional employees are not eligible.

This week I will be introducing the Restoring our Overtime Pay Act with Representative Adams and Senator Brown. The bill seeks to codify an enhanced overtime salary threshold, at a historic high of the 55th percentile of earnings of full-time salaried workers nationwide.

This threshold would be at least $82,732.00 by 2026. Overtime standards are long overdue for a meaningful update. It is high time our country pursued powerful protections for workers, especially in the wake of COVID–19. So, Dr. Shierholz, would you agree that the current overtime standards are overdue to be updated?

Ms. SHIERHOLZ. Yes. I would. And I thank you for that question, and I'm really happy to answer it, but I want to take 1 second to just correct something that was stated earlier. The PRO Act would not destroy the independent contractor model. Anyone who is a bonafide independent contractor would not be affected. Those who are misclassified as independent contractors, the thing that they would be able to do is those who would be impacted, those who are misclassified, who want to be able to organize. That's what it does. It's not a wholesale redo.

OK. Sorry for that divergence. So yes, we absolutely need to increase the overtime threshold. Right now, the overtime threshold is $35,568.00 a year, so basically anyone who makes over $36,000.00 can be asked to work 60, 70 hours, without getting any additional pay. It's really like the idea that somebody who makes $36,000.00 a year has enough bargaining power with respect to their employer, that they don't need the protections to keep them from being exploited from overwork is absolutely it's just I think everyone in this room would agree that that's not the case.

Mr. TAKANO. Yes. It's my recollection that in the 70's the overtime pay threshold was at a level that included 70 percent of the salaried workforce. Is that right?

Ms. SHIERHOLZ. Yes. It was. Our calculations put it at like 63 percent of the full-time salary, of full-time salaried workers, earned below the threshold. In other words, it was high enough that it covered nearly two-thirds of full-time salary workers. Now——

Mr. TAKANO. Those two-thirds, not 70 percent?

Ms. SHIERHOLZ. You got it. You got it.

Mr. TAKANO. But what is that percentage now of salaried workers today?

Ms. SHIERHOLZ. I think—OK, I can make sure to check this for you for the record, but I think it's around 15 percent. It's a huge drop.

Mr. TAKANO. Wow. We go from nearly two-thirds of the American workforce being covered by overtime pay. They were eligible for overtime pay, in fact they had a right to it, but that right has diminished from the 70's of two-thirds to 15 percent?

Ms. SHIERHOLZ. Yep.

Mr. TAKANO. That's an incredible figure. You know from 1938, I understand that a trucker who's paid $30,000.00 today—which is lower, I mean I admit trucking salaries have gone up, but they would not be able to earn overtime pay. Is that correct?

Ms. SHIERHOLZ. If they——

Mr. TAKANO. They're exempt.

Ms. SHIERHOLZ. They're exempt. They're really open to misclassification. So, you're supposed to still get overtime protections if you earn $38,000.00 if you are, you know, if you are not a bonafide manager, or sort of highly paid professional, but there's a ton of misclassification. They're extremely vulnerable to being exploited by over work.

Mr. TAKANO. So, if a trucker goes on an interState highway, they're exempt from overtime pay protections. Is that right?

Ms. SHIERHOLZ. They likely wouldn't pass the duties test, so you're supposed to be a bonafide manager, where you get overtime even if you are paid over the threshold, but that is violated all the time, which one of the reasons we really need to raise the threshold in order to make sure that people have the protections.

Mr. TAKANO. Well, I think with the shortage of truckers in this country, I'm all for the training and improving that industry, but

I think it's high time that we stop exempting truckers from the FLSA. I yield back.

Chairwoman FOXX. Thank you, Mr. Takano. Mr. Grothman, you're recognized for five minutes.

Mr. GROTHMAN. OK. Thank you. A couple questions. Some we've kind of already gone over, but with regard to the trucking industry, do you think we'd have more truckers if we would allow people to get a CDL and drive interState with a CDL at age 20 instead of 21.

Mr. SPEAR. You're asking me Congressman?

Mr. GROTHMAN. Yes.

Mr. SPEAR. Listen, I think you have got to do a lot of things to shore up the shortage. You're looking at 78,000 currently, 160,000 over the next 8 years. If this train continues. To maintain current economic demand, we need to add more talent behind the wheel. 18 to 20 is one of those solutions. You need to train them to safely and responsibly operate the equipment. Now 48 states currently allow an 18-year-old to drive a Class A. You just can't cross State lines.

Mr. GROTHMAN. What in the world would be an impossible reason if that many states allow you to drive back and forth in your State, to bar you from crossing State lines?

Mr. SPEAR. It's the difference between State and Federal jurisdiction. We're saying that let's train them. Let's give them the skillset.

Mr. GROTHMAN. So, in other words we're saying that 48 State legislatures are incompetent apparently. Is that what we're saying?

Mr. SPEAR. No. I think that's their jurisdiction. You just can't cross State lines. We cross State lines every day, so to train somebody, to teach somebody how to operate this equipment, it doesn't matter if you're running from Sacramento down to San Diego, you should be.

Mr. GROTHMAN. You know we're trying to help you.

Mr. SPEAR. Yep.

Mr. GROTHMAN. We even say that 48 State legislators are competent, and it's the U.S. Congress that's incompetent. We could say that.

Mr. SPEAR. Well, we put 18 to 20 as a pilot in the IIJA. We supported that.

Mr. GROTHMAN. OK. Now we don't have somebody up here who represents an airline, but I know a guy who does the annual inspections for airline pilots to make sure they can keep flying up to age 65. He doesn't know why that shouldn't be 67 or 68. Mr. Moore, would it do something to solve the pilot shortage if we allowed the pilots to keep being pilots, commercial pilots to 67 or 68 provided somebody signs off?

Mr. MOORE. I think we just—hey look, I don't know the specific situation with pilots, but we need to have a cultural shift in America where Americans are rewarded for working more years. You know, we're healthier than ever before, we have longer life expectancies, and as I mentioned, please, please address that issue with social security because it's just not fair to people who work past the age of 70.

Mr. GROTHMAN. OK. Mr. Akers, there are a variety of programs that are phased out as people make more money. Earned income tax credits starts going up, but I think it's obviously the biggest impact on society. It's to discourage people from making very much money, because you begin to make more money over the earned income tax credits.

Low-income housing, food stamps, Medicaid, Pell Grants, are other programs that discourage people from working, or you're no longer considered poor. Do you see in your employees either people not working because of the generosity of those programs, or more likely want to stop working when they make say 15,000.00 to $20,000.00 so they aren't phased out?

Mr. AKERS. Absolutely. And this has been going on for a long time. Literally, all the stylists that have discussions with me and they tell me they don't want to work full-time hours. They can only work 19 hours because that's the threshold where they lose some of the benefits.

Mr. GROTHMAN. Exactly. All over the place. All of these programs earned income tax credit, low-income housing, food stamps, Medicaid, Pell Grants, are designed by somebody who wanted to discourage people from working. And I'll point out all those programs are also designed by somebody who wants to discourage marriage.

Another program for you in general as I'm sure you have tons of resumes cross your desk. Do people with psychology or communication arts, political science degrees, even a master's degree in business, do you view that as a positive when you're hiring somebody, or is it just largely irrelevance?

Mr. AKERS. It's largely irrelevant. I'm looking for skills and talents and the ability to get along with people primarily. We'll train them on the rest of it.

Mr. GROTHMAN. OK. I heard one employer say that he didn't like to hire people with master's degrees because by then they've spent so long in college they had to be deprogrammed. Do you know anybody else in your profession——

Mr. AKERS. They don't know how to work anymore because they've been in school for their whole life.

Mr. GROTHMAN. My goodness. You're what one of my friends said, in other words, you viewed some case a master's degree is not only a non-existent qualification, but almost a minus. Is that true?

Mr. AKERS. Yes, I do. I'm sure it's great in their area of expertise if they can get a job in that area, but if they're trying to get a job anywhere else in another field it's a detriment.

Mr. GROTHMAN. OK. Well thank you very much.

Chairwoman FOXX. Thank you, Mr. Grothman. Ms. Jayapal, you're recognized for five minutes.

Ms. JAYAPAL. Thank you, Madam Chair. Under Democratic leadership the American economy rebounded from the pandemic, achieving record low unemployment and healthy productivity. And though we still face economic challenges, the answer is not austerity and reckless deregulation, but rather we've seen so much progress from investing in our future and strengthening worker protections to build an economy that works for everyone.

In January, the Federal Trade Commission made a historic stride toward this goal, announcing its plan to ban the use of non-compete clauses. Contract terms prohibit employees from later working for or starting a competing business. Non-competes, which cover nearly 1 in 5 workers, prevent workers from accepting a higher paying job in their chosen profession, or pursuing their own dream of starting their own company.

By banning this course of practice, the FTC's proposed rule will promote worker freedom, invigorate the labor market and stimulate broad economic growth. The title of this hearing is Unleashing America's Opportunities for Hiring and Employment, so I want to just examine how non-competes unleash opportunities.

So, Dr. Shierholz, do non-competes generally restrict or expand employment opportunities for workers?

Ms. SHIERHOLZ. They absolutely restrict employment opportunities. You literally cannot take a job in your field for a certain period of time when you have to sign a non-compete.

Ms. JAYAPAL. And those who defend the use of non-competes give examples of top management executives who may have sensitive information about their employer. Is this representative of all the workers who are bound by non-competes?

Ms. SHIERHOLZ. No. It is not. There are a lot of workers who—there's just no way they have access to trade secrets, who are also bound by non-competes. So, for example, EPI did a study that showed, that looked at this and showed that a quarter of workplaces where the typical employee education level is a high school degree, everyone in that company is covered by a non-compete agreement.

So, security guards, phlebotomists, factory employees, many of the occupations that are subject to non-competes. In fact, 10 percent of food service workers are bound by non-competes as well. So, the FTC's proposed rule will empower roughly 30 million workers to take new jobs that were previously off limits to them, unleashing new opportunities for workers.

Dr. Shierholz, do you expect this rule to increase or decrease wages?

Ms. SHIERHOLZ. The rule will absolutely increase wages for workers, so one of the key ways a non-unionized worker, essentially the only source of power they have with respect to their employer, is the fact that they could quit and take another job. Non-compete agreements cut that off, so it totally suppresses wage growth for those workers.

The empirical evidence is really clear on this, banning non-competes would increase wages.

Ms. JAYAPAL. And let's talk about employers for a second. Do non-competes generally restrict, or expand hiring pools for employers?

Ms. SHIERHOLZ. Yes. When an employer wants to hire a worker in a certain field, the key pool of workers that they could look at are workers who are working in that field. Non-competes just make many of that, you know, that pool much, much smaller.

Ms. JAYAPAL. So, it's good for employers as well. What about new startups and small businesses? Would the proposed FTC rule restrict or support, or hinder the creation of new startups and small businesses?

Ms. SHIERHOLZ. The empirical evidence is really clear banning non-competes would increase business formation because non-competes mean that you can't start a business in that field. So, it inhibits innovation. It means, you know, if I have an idea of how to do something better, I actually can't go do that because I have signed a non-compete agreement.

Ms. JAYAPAL. So good for workers, good for employers, good for wages, let's talk about the argument that non-competes are necessary to safeguard trade secrets and other sensitive information. But there's actually several laws on the books already protecting firms like intellectual property laws, the Uniform Trade Secrets Act, and the Economic Espionage Act.

Are non-competes essential to protecting a firm's trade secrets?

Ms. SHIERHOLZ. They totally are not, and we can look at the states that have made non-competes unenforceable, including California, which includes Silicon Valley to say are we really seeing this massive decrease in innovation because employers are getting their trade secrets stolen. That is just not the case. Employers can use these other intellectual property laws, and also one thing that they can do is still do tailored, non-disclosure agreements without doing non-compete agreements that can also protect trade secrets.

Ms. JAYAPAL. This is really a bipartisan issue. Three states, California, Oklahoma and North Dakota have all voided non-competes, and five more, including my home State of Washington, have significantly restricted them, and guess what? The sky didn't fall. This is an important rule that will help workers, help small businesses, and help employers. Thank you so much. I yield back Madam Chair.

Chairwoman FOXX. Thank you very much. Mr. Allen, you're recognized for five minutes.

Mr. ALLEN. Thank you, Madam Chairman, and I want to thank our witnesses for being here today. I was a small business owner for over 40 years. Obviously, small business is the backbone of this economy. In fact, in the best economy in my generation, which Mr. Moore mentioned, 70 percent of all new jobs created were small business, and small business created over, you know, with working about 50 percent of the workforce at that time.

The Biden Department of Labor, and let's talk about the PRO Act, and just clear this up a little bit. The Biden Department of Labor proposed independent contractor classification rule that would significantly muddy the waters on the standards used to determine independent contractor status, and would significantly undermine the independent contractor model, if not destroy it entirely.

This attack on independent contractors by a Democratic administration is nothing new. We had the same challenge under the last term of the Obama administration when I was first elected to Congress. During the COVID pandemic we saw that 60 plus million Americans wanted more flexibility, and their livelihoods depended on the flexibilities that being an independent contractor provides.

My Employee Rights Act, which I have coauthored with Tim Scott in the last Congress, would codify the common law definition of an employee allowing independent contractors to keep the flexibility they currently enjoy. Mr. Akers, under this Labor Department rule, how would that impact your overall business operations?

Mr. AKERS. Excuse me. Dramatically impact it. We lose total control over employees. They're driven by other guidance outside of our sphere of influence. So, this takes away the opportunity for me as an entrepreneur to change the lives of my employees, to make, to give them a better existence, change the lives of their children because one size fits all doesn't work nationwide.

The economic situation in Iowa is completely different than in other states.

Mr. ALLEN. Well obviously, bottom up is better than top down. That's the way, you know, America runs is bottom up. And we are a grassroots country and thank you sir for what you're doing. Mr. Spear, what is your assessment on this proposed Biden independent contractor rule, and how it would impact your industry?

Mr. SPEAR. In about 350,000 independent contractors nationwide. California, as mentioned, this AB5, 70,000 independent contractors in California. And every day we're moving, you know, milk, eggs, bread, to vaccines. I mean if you want the things that you need and want, you're going to need a driver. We're already short 78,000. Now we're going to exacerbate that number with another 350,000 by making the requirements so vague that it literally, it makes the independent contractor the 90-year-old model irrelevant.

This is about choice. Nobody is telling these people they have to go down this path. There're laws in place and enforcement to take care of any abuses that occur out there, not just those laws, but we've got boards, we've got commissions, Federal, State, local enforcement. That will be handled accordingly.

Mr. ALLEN. And that's exactly why we wrote the Employee Rights Act.

Mr. SPEAR. That's right.

Mr. ALLEN. Was to give the American people choice. And the American people want choice, and I agree 100 percent with you. Mr. Moore, thank you for your great work in analyzing in our economic problems. I agree with you on workforce participation.

You know the last time we balanced the budget in this country we had almost 70 percent workforce participation in this country. That was 2001. And that was as a result of the legislation that President Clinton signed to promote work in this country. And to get people out of poverty and into the workforce, and to move up the food chain as fast as possible.

And there are so many opportunities out there today. How do we change this? I mean who is against giving somebody the opportunity and the dignity to hold a great job and provide for their family?

Mr. MOORE. Well, thank you, Congressman. The evidence is crystal clear that what we did back in 1996 was an overriding success in every way. And a lot of the opponents said there would be blood, and literally on the House floor in this chamber, said there would be blood in the streets if we passed welfare reform, and exactly the opposite happened.

And by the way, you know, the biggest beneficiaries were a lot of the people who had been on welfare, who actually got in the workforce. I mean look, you can't climb the ladder of economic success if you're collecting economic benefits and not working. So, it is really critically important to just restore all of the rules that we had in 1996.

These work requirements began to be eviscerated under the Obama administration, and then the Biden administration has completely gotten rid of all of those reforms and work requirements. We want a safety net, we want to make sure people don't go homeless or hungry, but we want to help them get in the workforce through training, and through they should be either looking for a job, and training, or in a job.

Mr. ALLEN. That's what America is all about. Opportunity for all. Thank you very much and I yield back.

Chairwoman FOXX. Thank you, Mr. Allen. Ms. Wild you're recognized for five minutes.

Ms. WILD. Thank you, Madam Chairwoman. Everybody wants people to be able to have good jobs that pay well and wants opportunity for everyone. I think we on both sides of the aisle absolutely agree on that. But this is about things that cost working folks money quite frankly. And so, I want to ask you, Dr. Shierholz, about the joint employer rule. Your organization estimated that the Trump Department of Labor's joint employer rule would have cost American workers 1 billion dollars.

And yet, some of my colleagues across the aisle continue to advocate for legislation that would put this Trump era rule into law. It would allow predatory companies to use contracting, and subcontracting, basically as a get out of jail free card. Can you tell us what that kind of legislation, passage of that kind of legislation would mean for America's working families?

Ms. SHIERHOLZ. Yes. Thank you so much for that question, and I want to take another second first to correct something that was just stated. The welfare reform of 1996 was not a resounding success. It looked like a resounding success if you only measure until the year 2000, because we had the strongest labor market at that time than we have had until the last 2 years.

If you look past that, when the macro economy situation deteriorates, it does not look even close to being a success. That's just an important background that we need to have.

Ms. WILD. Thank you.

Ms. SHIERHOLZ. OK. On joint employer, yes, what the joint employer rule that's being debated, or that's being——

Ms. WILD. Let me just reState because you answered something else, and that's great. It was helpful. So, what I'm really looking for, what would the consequences be of implementing this Trump era joint employer rule for working families?

Ms. SHIERHOLZ. For implementing the Trump era rule. So, what that rule does is it makes it less possible for workers to uphold all—to get all employers that control the terms and conditions of their employment to the bargaining table. And that means they can less effectively collectively bargain, and that leads to lower wages, lower benefits.

Ms. WILD. So, I like to put things in really clean terms. If you have multiple employers, it's really hard to get them all to the table to negotiate pay.

Ms. SHIERHOLZ. Yes.

Ms. WILD. The right to organize, benefits, working conditions, and other things. Is that fair to say?

Ms. SHIERHOLZ. That's exactly right. An employer who is not the lead employer, if the union wants to negotiate over say health insurance, and they're like no, that's controlled by the lead employer, I can't negotiate over that. That means the union is less able to effectively negotiate.

Ms. WILD. OK. Thank you for that. And I also wanted to ask you about something about rulemaking that the NLRB initiated last September to rescind and replace the Trump administration's joint employer status standard. The Economic Policy Institute estimated that if it was implemented the NLRB's proposed rule would increase annual worker earnings by over 1 billion dollars.

Again, I like plain talk. We would like working people to make more money. Is that a fair statement?

Ms. SHIERHOLZ. Yes.

Ms. WILD. And how would this proposed joint employer status rule empower workers?

Ms. SHIERHOLZ. It's the opposite of what happened with the Trump rule. It would allow employees, workers who are in a union, to bring all the companies who control the terms and conditions of their employment to the bargaining table. That makes the bargaining more effective and leads to higher wages.

Ms. WILD. So can I ask you this because I think sometimes there is this concern by small businesses, and quite frankly they are egged on by some of our colleagues across the aisle, and being concerned that it's somehow going to hurt them if they have this kind of rule. Can you tell us how small businesses might benefit under this rule?

Ms. SHIERHOLZ. Yes. This is the thing that kind of boggles my mind in this discussion. Small businesses, franchisees, they're already on the hook for violations of labor law. I mean it could be something that they're getting pressure from the franchisor, or the lead company to violate labor law.

But if the joint employer—they are the only ones currently who are accountable. If we have a strong joint employer standard, then the lead company will also be accountable as well. It strengthens the position of the small business.

Ms. WILD. So, it would in a way reduce the potential liability of a small business?

Ms. SHIERHOLZ. Yes. It means it's more broadly shared, yes.

Ms. WILD. Thank you. With that I yield back Madam Chair.

Chairwoman FOXX. Thank you very much Ms. ld. Mr. Comer you're recognized for five minutes.

Mr. COMER. Thank you, Madam Chair. Let's go back to 2015, the National Labor Relations Board comprised entirely of President Obama's appointees, created a broad definition of joint employment that put the franchise model at risk, and threatened to erode small business owner's control of their operations.

This action cost franchise businesses 33.3 billion dollars per year and prevented the creation of 376,000 jobs over the next 5 years. Then during the time of soaring prices, we saw the Department of Labor's Wage and Hour division rescind the narrowly tailored joint employment rulemaking published under the Trump administration and released a proposed rulemaking reverting once again to the harmful Obama era joint employer definition.

Reversing the previous administration's action has once again upended business owner's stability and authority over settling the essential terms of employment for their employees. In my own State of Kentucky alone, any shift in the definition of joint employment affects 10,971 franchise locations, generating over 9.7 billion dollars.

Time and time again those on the other side of the aisle have trampled on the rights of these small business owners and failed to provide clarity for their employees. That's why the Save Local Business Act is essential. Congress must codify a tailored consistent joint employers standard to prevent infringement from government bureaucrats on our Nation's entrepreneurs and job creators.

To do this, I'm introducing the Save Local Business Act, which provides a stable definition of a joint employer as one which directly, actually, and immediately exercises significant control over the essential terms and conditions of employment. If this definition is not codified, franchisees across the country may be subject to further interference by future rulemakings, which could subject them to bargaining with unions for another employer's workers, making them targets of union dispute activities, or be held liable for another employer's unfair labor practices.

Mr. Akers, can you explain how this legislation would help you grow your business?

Mr. AKERS. Absolutely. We choose whether we are going to grow and add locations based on staffing. When you take that opportunity away from us, why would we continue to grow when somebody else is going to have oversight on those staff members? The only way we can do this, and frankly, why would somebody buy a new business, a new franchise, if they learned that they're not going to be able to make decisions about their employees?

Saving local businesses, especially through the franchise model, it's critical to have that law put into place.

Mr. COMER. Mr. Spear, can you provide us some context about joint employer relationships within the trucking industry, and how the Save Local Business Act would impact those wishing to franchise, or enter into a joint employer relationship?

Mr. SPEAR. I think we need flexibility. I mean we're trying to attract more talent into the industry, and let's be really honest why this is actually happening, and why you have to introduce legislation like this. This is about increasing membership and unions. This is about generating more dues, and unions.

They've halved the amount of membership over the last forty years, and yes, this is a concerted effort to change the rules, change the laws, and channel more people into unions. And eliminating flexibility is about the worst thing that you can do right now in an economy that's trying to recover from COVID, and trying to lead the world, candidly.

Our industry is essential. And it proved that during COVID, and so any attempt to unravel our business models, eliminate our workforce by removing choice, we're going to oppose that rigorously. And just ask the employees. Just ask the independent contractors why did they choose this path? You'll get the answer that you're looking for, and I think your legislation will be on track to preserving that.

Mr. COMER. Right. Well Madam Chair, someone who has had ownership interest in a couple of different franchises, I could tell you anyone who takes that significant risk of purchasing a franchise, and understands the terms and conditions of that franchise agreement, then they're blindsided by Federal bureaucrats on just out of the blue rulemaking that has a detrimental impact on their bottom line, and on the, you know, the significant risk and the work that they put in this. It's very unfortunate.

It's a disincentive to attract investment to create new jobs to grow our economy. So, I look forward to working with you, Madam Chair, on this legislation. I want to thank the witnesses for being here and I yield back.

Chairwoman FOXX. Thank you, Mr. Comer. It's great when we have Members who have a wide ranging of experiences themselves. They can speak to the issues. Ms. Hayes, you're recognized for five minutes.

Mrs. HAYES. Thank you, Dr. Foxx. Before I go into my questions I just would like to flag for the Committee, I represent the State of Connecticut, and I'd like to correct the record on some comments that were made in openings. Connecticut's unemployment rate is currently 4 percent as of February 2023.

Our total unemployment in Connecticut is 16—I'm sorry, 76,000 people. In September 2022, Connecticut saw a 27 percent decrease in unemployment, the third largest drop since 1987. As of September 2023, 16,500 jobs have been created in Connecticut since President Biden took office.

And 83,700 jobs have been created statewide. As of September 2022, 1800 manufacturing jobs have been created in my district—I'm sorry, in Connecticut. In my district, and 8,400 in statewide. In 2021, 27,000 workers in Connecticut were employed in clean energy and emerging sectors, and 9,600 applications to start a new business were filed in Connecticut, up from 6,100 the year before the pandemic.

So blue State shutdowns did not stifle the economy. In Connecticut, it is an example of how we have used American Rescue Plan Act funds and other incentives by the Biden administration to stimulate our economy and get people back to work.

Since President Biden took office, the economy has created 12.4 million jobs between 2019 and 2022. Low wage workers experienced historically fast, real wage growth, and wages at the 10 percentile grew 9 percent over the same 3-year period. The actions of congressional Democrats in the Biden administration have driven this wage growth.

However, our work is not complete. Connecticut has recovered about 96 percent of the nearly 289,000 jobs lost during the pandemic, and job openings remain above pre-pandemic levels in Connecticut. Additional support from Congress can help fully equip workers with the skills they need to be competitive and provide employers with a highly productive workforce.

Last year in Congress we passed the Workforce Innovation and Opportunity Act, or WIOA. This included my bill, the Youth Build for Futures Act, which would have provided 1 billion dollars over

6 years for Youth Build, and improved program support for vulnerable youth who are not in school or employed.

Dr. Shierholz, can you tell me what are the risks to State and local workforce development programs without the passage of an updated WIOA Act, and how will a lack of congressional action affect current hiring and employment conditions, especially as we try to file these new and emerging economies?

Ms. SHIERHOLZ. The making sure that we have a workforce that's prepared for the modern economy is so incredibly important. I also think about this as we shift to a clean energy economy, we're going to be needing to make sure that people are really trained. So, making sure these programs are really, really like the top-notch programs is incredibly important.

One thing I really think that we need to focus on is union apprenticeship programs. Another key area is pre-apprenticeship programs. Pre-apprenticeship programs are one key way that you can get—that we can increase diversity in apprenticeships. You can really attract more women, black youth, other groups that may not otherwise end up in apprenticeship programs, and then setting up a pathway—a clear pathway to good jobs is crucial.

Mrs. HAYES. Thank you. I really appreciate that because as a teacher I always believe that if we can expose young people to more opportunities much sooner, they would see all of the choices that are available to them. In the conclusion of your testimony, you emphasized the importance of expanding Federal funding for apprenticeships and other workforce training programs to create pathways to higher-paying jobs.

Can you tell us how can workforce training apprenticeship programs provide more protection for workers, and what role can these programs play in helping workers increase career mobility?

Ms. SHIERHOLZ. It creates opportunity. It means it gives a foot in the door. It creates the opportunity for being able to get on a career path that can lead to a family sustaining job. It's just a crucial step for a huge swath of our labor market.

Mrs. HAYES. Thank you Dr. Shierholz, you're going to help me get a gold star. I yield back.

Chairwoman FOXX. Thank you. Mr. Owens, you're recognized for five minutes.

Mr. OWENS. Thank you. Thank you so much. Ms. ierholz, I just have a quick question for you. Have you ever run a business?

Ms. SHIERHOLZ. Right now, I'm the President of an organization that has around 50 FTEs.

Mr. OWENS. No, no, I'm not talking about—a business, have you ever invested, had shareholders you have to kind of deal with, or look at your profit?

Ms. SHIERHOLZ. I have not, but as I said I now run an organization with 50 FTEs.

Mr. OWENS. We're talking about business owners here. And I'll just say this because we do have people on this desk here that are experts at what they do for decades. A little bit of my history, and by the way there's nothing wrong with government and business owner. Either one is OK. I think it's important to understand there's a need for both.

I came out of the NFL after 10 years and started a business, and 9 years failed totally big time. I went to being a security guard and a chimney sweep. I never, ever thought about being a government worker. I did decide—did get back in a corporate environment, and always had a business on the side as an independent contractor.

The reason why because I wanted a choice. I wanted to have control, I wanted to have a dream path, another person's job. Do you think that being in your position it would be healthy to listen to other business owners, what they think since Mr. Spears how long have you been in your profession?

Mr. SPEARS. I've been in this role 7 years, and 2 years prior in our congressional office, so nearly 10 years.

Mr. OWENS. OK. Franchise?

Mr. AKERS. Yes. I've been in the franchise world for 17 years in corporate America running businesses for 30 years before that.

Mr. OWENS. Heritage, and Mr. Moore, how long have you been doing what you're doing?

Mr. MOORE. I run three non-profits, so I have not run a private, you know, a private for-process business. But I take your point. I mean this is, you know, one of the problems with the Biden administration. We did this famous study that came out 6 months ago that of the 75 top economic, financial, transportation, energy officials in the Biden administration the average number of years of business experience, median number is zero.

Mr. OWENS. OK. I think you made a good point. First of all, a shout out to every business owner up here that's taken a risk. For many people who don't understand our free market, our great society, our great country, our freedom was built on our middle class. Middle class are those folks that have empathy, they have a vision, they want a good name, and they look back and try to invest back in their community.

That middle class is powered by business owners. The business owners and the middle class is what pays your salary. Because it's excess, it is a profit. I think when you talk about things like PRO Act, why don't you talk to the experts? I'm trying to understand how government workers get to this point where because you're good at one area, you're experts in everything else.

We're telling you that this country's built on business ownership, on taking risk. I've been risk—and again, personalities, we have different personalities. Some are more risk adverse. I happen to be one of those guys. So, I like risk, because I think to get my dream I'll have to take some more.

So, it's OK to not want to be a risk taker, but don't take away the dreams and hopes and choices for those who do. This country has always been built on business ownership, and we need to make sure that we understand the threat to our Nation today is this mentality that we have this central force that knows everything, and can dictate every single step in our lives, in terms of what we do and what we don't do.

What choices we have, and what choices we don't, and we cannot afford to do that. I wanted to ask a real quick question. Mr. Akers, you stated in your testimony that it was 790,000 franchise establishments employ 8.4 million workers. I want to keep in mind it's not government who hires these people. These are business owners.

A lot of business work to serve millions of customers and help drive our economy. We need to ensure businesses like yours can expand higher and serve customers. As a franchisee, what specific regulations or policies do you believe are hindering your ability to address workforce challenges?

Mr. AKERS. Well, the No. 1 right now is the fear of the PRO Act going through because we certainly won't be able to do anything with that. We give better benefits and pay to our staff than anybody else could regulate, and we will lose that impact if we do this because it will be a one size fits all thing.

And I thank you for what you're doing Mr. Owens.

Mr. OWENS. I'll say this. I'm so thankful the American people have given us an opportunity to stand for who they are. The Republican conference stands for faith, family, the free market, and education. It's the risk takers, and I could promise you we'll do everything we can to make sure we do not allow this PRO Act, this anti-American, anti-free market PRO Act to go through, and we'll make sure we educate the American people.

Let them know you dream, go for it. If you want to work for the government, go for it. But do not stop those who empower the middle class. And with that I yield back.

Chairwoman FOXX. Thank you, Mr. Owens. Ms. Leger Fernández, you're recognized for five minutes.

Ms. LEGER FERNÁNDEZ. Well, thank you so very much Ranking Member Scott, and Chairwoman Foxx for putting together this panel, talking today. You know, I spent 2 days ago I spent time with Dolores Huerta, who as you know is such a champion for workers? rights and human rights.

It was wonderful to be with her as she's 92 years old, and still marching for workers? rights, and spending the time talking to New Mexicans and others about the importance of unions. Dolores and Cesar understood what we do when faced with economic and income inequality. We give workers more power, we pay workers what they deserve.

That's what we did with the billions of dollars in spending in the Infrastructure Bill. We wrote into the law a requirement that workers get paid what they deserve. Americans know that this is the right thing to do as well. We have the highest rate of approval for unions since 1965. 71 percent approval for unions. Americans recognize the value of unions.

We know that they are key to achieving fair pay, to maintaining safe working conditions, to recognize the dignity of each person's work. That is key to our country's success. Dr. Shierholz, your organization has repeatedly found evidence that unions shrink both racial and gender wage gaps, while raising wages for all workers.

The drop in union membership since the late 1970's as you've shown us, taking $58.00 a week out of the paycheck of non-union working without a college degree, so it's across the board. Can you tell us a bit more how collective bargaining levels the playing field for workers, especially those without a college degree?

Ms. SHIERHOLZ. Thank you for that question. So, unions, the empirical evidence is just clear, unions—workers who are in a union make about 10 percent more than similar workers who are not in unions. They have higher benefits. They have better working conditions, better scheduling, more likely to have vacation, healthcare, retirement benefits, like the sort of list is endless.

They have a voice on the job, so if there is an issue at work, they actually have a mechanism to be able to communicate to their employer, which can make the employer, make the workplace safer. It can provide real innovative ideas for the workplace. So, it is the—what they do is just provide some countervailing power to workers to sort of the inherent employer power, make the economy better off.

Ms. LEGER FERNÁNDEZ. Thank you so very much. And you know the other major concern we have is protecting our babies, protecting our children. And many of whom are migrants from Latin America fleeing the worst horrors of egregious labor conditions. Dr. Shierholz, a new report from your organization finds that the number of minors employed in violation of child labor laws has increased 37 percent in the last year and skyrocketed 283 percent since 2015.

Chair Foxx, I seek unanimous consent to enter this report into the record.

Chairwoman FOXX. Without objection.

Ms. LEGER FERNÁNDEZ. So, I want to get to thanking Mr. Spear in your testimony for highlighting the safe driver apprenticeship program, and the Women of Trucking Advisement Board. Thank you very much for noting those. Both of these programs, I will note, were created by the Infrastructure Investment and Jobs Act, as you pointed out, correct?

I will note that not one of our Republican colleagues on this Committee voted for those important apprenticeship programs. But going back to you, Dr. Shierholz, how have recent State level rollbacks and child labor protections exacerbated the issue of child labor?

Ms. SHIERHOLZ. There have been in ten states bills passed to roll back child labor standards over the last 2 years alone. It's just remarkable that we are now having this debate about whether 14-year-olds should work in meat packing plants, like that we're going back to this idea of children in factories is actually kind of mind-boggling.

It's the idea that people are saying we need this is because of labor shortages. But the economics tells you there is a hard and fast way to solve a labor shortage. You raise wages. That's how you attract workers. So, the idea that instead of raising wages for grownups, we would instead use what is inevitably the most vulnerable, economically precarious youth to fill those roles. It's just—it's absolutely unthinkable.

Ms. LEGER FERNÁNDEZ. Thank you very much Dr. for that, and I would also note that we have passed the last session, the Congress, the House passed immigration reform, the Farm Worker Modernization Act, and various other acts that would also allow for immigrant workers to participate, which has impacted our labor force.

It would be a 1.4 trillion dollars economic benefit if we did that. My time has passed, and I yield back.

Chairwoman FOXX. Thank you very much. Mr. Williams, you're recognized for five minutes.

Mr. WILLIAMS. Thank you, Madam Chairman. You know before I entered here today, I actually was concerned about our economy, and concerned about inflation. I was concerned about real wages. I was concerned about a lot of things, but some of the testimony I've heard, and questions I've heard, we're living in the greatest economic time in history.

And with practically full employment, and it's practically a worker's paradise. And I'm also ashamed to say that my children have held jobs since they were 16 of their own volition, and it's too late now to go back and stop them from the enormous success that they're having in academics, and in their professional lives to prevent the scarring that obviously was done by this terrible tragedy.

So, my own personal experience is actually quite different. Mr. Moore, we've heard this celebration of the unemployment rates, and yet it seems maybe not all is well. Can you talk about the employment participation rates, and what your observation has been, and why that's important please sir?

Mr. MOORE. Just a word about what you said about people working at younger ages. You know, the statistics are pretty clear that the earlier you start working the more successful you are in your life. When I worked for 10 years at the Wall Street Journal, we had so many successful people come in. Every area of life, whether it was music, arts, finance, business, and I'd always ask them what did you do when you were growing up.

And I was struck by how many people grew up on farms because if you're someone like my wife who grew up on a farm, you start working when you're 7, or 8, or 9 or 10 years old. And you work, you establish a work habit. I'm not saying I'm for child—against, you know, getting rid of child labor laws.

I'm just saying you're right. 13, 14, 15-year-olds probably should be doing after schoolwork and things like that to buildup their skills to be more successful in life. Look, the economy is—I'm with the, you know, 67 percent of Americans who just think this economy is really fragile.

The labor market is strong. The job market is strong today. There's no question about it. It's about as strong as I've seen. The problem is people are getting poorer. Every month that Joe Biden has been in office the average Americans get poorer and poorer and poorer and poorer.

Because when you have inflation running, you know, at 15 percent over the last 2 years, in other words over that whole period, and wages are only up by 10 percent, guess what? Your purchasing power declines. It's exactly what happened in the 1970's by the way. And then the economy collapsed. So, I don't think Americans are feeling the love for this economy, and I think we have to do real reforms, and you know, the main point is let's encourage people to get into the workforce.

You're not going to get out of poverty if you don't have a job. And the jobs are out there. So that's my take on where we are, and I—look, if we continue to spend and borrow as we've done with this 6 trillion-dollar massive increase in our debt, and I find that to be incredibly dangerous. I think we will have a financial crisis in this country if we don't start balancing our budget right away.

Mr. WILLIAMS. This is a true statement. It doesn't matter what side of the aisle you're on. You can't lie to the American people about the economy. They live it every day. The truth is working Americans have fallen 10 years behind in wages, in real wages, and that's a shame. And it's because of inflation, it's because of the policies, particularly the last 2 years, but not exclusively the last 2 years.

Right now, 63 percent of Americans live paycheck to paycheck, and with the rising costs that are rising faster than their wages, they're falling further and further behind through no fault of their own. And we, Members of Congress, and yourselves, even as business owners, or policy experts, really deserve, or really owe working Americans an answer on why that's true.

And there's a certain compact that we've made with working Americans. If you finish high school, if you get a job, if you show up, if you continue to add skills, you're going to be OK. And you're going to be able to support a family. You're going to be able to have maybe a nicer car than your neighbor.

Maybe you can get a few toys along the way. This is really what people in my district live for. And God bless them for it. And through no fault of their own, because of our energy policies, this goes is sliding further and further away. And they want to know what happened. They're not political activists, they're not Ph. Ds in economics.

They didn't go to Wharton. And they really want some answers, and they want some actions. Right now, we are telling ourselves fibs about the economy. We are saying that we're bridging to a new golden carbon free economy that will impoverish the middle class.

We're saying that there's a worker nirvana just over the horizon, if we just had more regulation, and that is not true. And it's been proven false throughout all of history. So, I appreciate your comments, and I appreciate your standing up here and speaking the truth about the economy, where it can be discerned. Thank you. I yield back Madam.

Chairwoman FOXX. Thank you, Mr. Williams. Ms. Stevens, you're recognized for five minutes.

Ms. STEVENS. Thank you, Madam Chair, and thank you to our distinguished panelists for being with us here this morning on the Education and Labor Committee hearing for this topic of Unleashing America's Opportunities for Hiring and Employment. It is something that is quite acute to us in southeastern Michigan, Oakland County, where I represent a manufacturing destination with 2 and a half percent unemployment.

We got a tight labor market, and frankly, I believe that we have the best practice example of American Rescue Act dollars at play. And look, we have been through a tumultuous season, with the COVID–19 pandemic. We've also had economic turbulence, for markers throughout this century, if it is the great recession which took us time to dig out of.

You know, it wasn't until April 2014, when total employment reached its pre-recession level, and that was after actions that we took with the Recovery Act. This is work that we heard from at the local level where it said, hey, it's time to invest right? We've got to invest fully to fully be able to recover.

And certainly, on this Committee, we're looking at and evaluating the experience of our low wage workers, our lower wage workers, and how to lift people out of poverty, and bring people into the middle class, which is why many of us have pushed for a long time to raise the minimum wage.

But Dr. Shierholz, we recently marked the 2-year anniversary of President Biden's American Rescue Plan. I know we're talking about this in today's hearing. And I wanted to just directly ask you that in terms of the harm to workers that was avoided because of the important investments that were made in this package, we believe, and many of us in this Committee believe, tie people to jobs, right?

Let's make sure that people stay tethered to jobs. Let's not leave people in long-term unemployment. But could you speak to the experience of workers in harm that was avoided because of the steps that were taken with the American Rescue?

Ms. SHIERHOLZ. I totally appreciate this question, and I just want to quickly correct something that was just said before I do that. That this idea that U.S. workers have fallen 10 years behind in real wages, that's just empirically false. If you look since 2019, workers at every point of the wage distribution have higher wages now than they did then.

And those at the very bottom of the wage distribution have wages now that are 9 percent higher than they were then, so.

Ms. STEVENS. So, people are making more money.

Ms. SHIERHOLZ. They are making more money than they did pre-COVID. I'm not saying inflation wasn't a big hit, but over that period wages—nominal wages have grown enough to make up for that. OK. ARPA. So, I think this question, we only have to look to what happened after the great recession to show what we just avoided, by passing ARPA.

In the aftermath of the great recession, it took 10 years to get back down to the pre-recession unemployment rate. Weak recoveries, which is what we saw then, they churn out inequality. They churn out racial inequity, they churn out lost opportunities. ARPA kept that from happening. Like the scale of the inequality that didn't widen, the racial inequities that didn't get worse, like the opportunities that were not lost are just pretty staggering to think about.

Ms. STEVENS. And we're utilizing ongoing ARP investments to rebuild the State and local private sector workforce. You know, it's just a place where we've partnered with AFSCME and heard from AFSCME very directly on. And so, are there other examples of how ARP has supported lower wage workers, particularly of the State and local level to continue to grow that workforce?

Ms. SHIERHOLZ. Yes. That's actually, that's a mixed bag, right? Like and when we look at the private sector has just gone like gangbusters over the last 2 years. The public sector is growing, but not as fast of a rate, in that there's still a really big gap, so State and local governments, particularly, some of them are using the relief that was in the American Rescue Plan to raise pay and hire those workers back.

But others aren't doing that as much and should be doing that more. You know, it's K through 12. It's teachers. Those are the—we absolutely——

Ms. STEVENS. Stabilizing our schools?

Ms. SHIERHOLZ. Yes. We need schools.

Ms. STEVENS. Are you familiar with the statistic that our country rebounded economically the fastest of any nation coming out of COVID–19?

Ms. SHIERHOLZ. You know, I haven't looked at the global stuff, but you can look at history in the U.S., and that is true for past recessions in the U.S. Like what we did now it was just an unbelievable policy achievement.

Ms. STEVENS. Thank you. Unbelievable policy achievement. And with that, I yield back Madam Chair.

Chairwoman FOXX. Thank you very much. Mr. Banks, you're recognized for five minutes.

Mr. BANKS. Thank you. Mr. Spear, Indiana is one of the most active trucking industries in the United States. In late 2021, the ATA put out the following press release on the Biden administration's vaccine mandate, and how it would threaten the trucking industry, and cripple the Nation's supply chain. Can you elaborate more on those mandates, or even just the threat of those mandates, and how they impacted your industry and our supply chain?

Mr. SPEAR. I'm quick to point out that the Trump administration, President Trump, Biden administration, President Biden didn't create the global pandemic. OK. You play the hand you're dealt, and you know, when you're trying to recover economically, you're trying to navigate the pitfalls of a pandemic like this, get people vaccinated, keep it from spreading.

You don't make it worse. And this is an administration that well exceeded the statutory authority of the Occupational Safety and Health Act of 1970. OSHA does not have the authority to regulate vaccine mandates. So, when this was put out, we joined a number of others in suing, took it through two Federal District Courts to the Supreme Court, and got a 6–3 decision, and bounced it.

Because we knew they didn't have the authority. We knew this was semantics. But this wasn't going to solve the problem. Our drivers, by the way, throughout COVID, got in the truck and delivered everything that we need, including the vaccine, the PPE. We did that. You know, you're welcome. You're welcome.

So, to put out a mandate for people that are getting in the cab that are isolated largely, from being exposed to COVID, and are keeping our economy glued together had to be one of the most ridiculous policy ideas I have ever heard. And they deserve to get bounced to the Supreme Court, and we as an industry, will continue to exercise our legal rights when we see it's warranted.

Mr. BANKS. Well, I agree with you. It remains unclear if the border vaccine requirements for non-U.S. citizens coming to the United States is going to end on May 11. The Canadian Trucking Alliance has said this mandate has affected thousands of unvaccinated truck drivers in Canada and Mexico, by preventing them from entering the United States.

If the Biden administration's border vaccine requirements remain in place, and truckers from Canada and Mexico remain unable to come to the United States, how will that affect our trucking industry and the supply chains throughout North America?

Mr. SPEAR. It's a dramatic impact. Removing literally 73 percent of the USMCA freight, so we were supporting NAFTA, and now USMCA there isn't really anything that we don't eat, drink or wear that doesn't come off a truck. There's a driver behind the wheel to make sure that happens, and yes, we rely on Canadian and Mexican drivers to support that.

To support the supply chain. So, these mandates matter, and it really comes down to diplomacy. Work with your Canadian counterparts and your Mexican counterparts, so that we can maintain seamless policies with respect to vaccinations that don't have an adverse impact on the economy. It's not that difficult, but we're not communicating with our counterparts, and that's a big problem where you have these disparities.

It has a measurable impact on trade and the economy, and we're the ones to bear it as an industry. We feel it first before anybody else.

Mr. BANKS. It seems like common sense. We appreciate all you do to represent Hoosier truck drivers. With that, Madam Chair, I yield back.

Chairwoman FOXX. Thank you, Mr. Banks. Mr. Mrvan, you're recognized for five minutes.

Mr. MRVAN. Thank you, Chairwoman Foxx. Dr. Shierholz, some 70 percent of Americans have a favorable view of unions and some 48 percent of workers who are not in unions, would like to belong to one. However, union density is only at about 10 percent. Why is there such a wide gap?

Ms. SHIERHOLZ. Yes. That's—oops sorry. I got it. Thank you for that question. I think it's really important. There is just that gap between the share of workers who want to be in the union, and the share of workers who are actually in a union. That's policy. That gap is policy. That is policy that has not kept up with employer aggressiveness in fighting unions, that has really undermined workers' actual right to be in a union.

Mr. MRVAN. OK. So, I represent Northwest Indiana, heavy on industry, manufacturing, and have a strong union presence. And the ability to collectively bargain and create a safe workplace is extremely important. And so, from my perspective there is absolutely a role for union.

And of course, there's a role for small businesses also. And I just also want to say as a local elected official, I was a North Township Trustee, and we were in charge of emergency poor relief. I did that for 15 years. And one of the programs that we worked with, with Ivy Tech, which is a community college, this was in 2006. It was to train and operate people to get their CDL license, to have a pipeline so people would come into our office, and we would try and find people instead of giving out direct aid, try and help them find a job.

But the trucking industry in 2006 was in great need of drivers. So, when you, Mr. Spears, utilized the 78,000 drivers needed now, and 136,000 needed 10 years down the line, that is actually really a cycle that has existed for a long time. The trucking industry has been in great need of drivers at least since 2006. Is that correct?

Mr. SPEARS. That is correct. We like to say post-COVID, welcome to the show. We've been short for a very long time.

Mr. MRVAN. Right. And there are multiple things that get in the way of CDLs, and those opportunities, which is a phenomenal career path for those individuals. And I guess what my point is today is we do all have to work together in order to shore up the workforce to be able to create synergies that allow people to get into the CDLs and to drive, so that our freight is able to maneuver around.

And when it comes to unionized labor, there is a role in our country because there has been exploitation of workers, and our history has shown that. And that's why it's so vitally important within my district to be able to protect working men and women. And just taking this opportunity also, closing the wage gap for African American and women, unions have done a great job in that.

Union women who are of color make 93 cents on the dollar, where those who are non-union make about 78 percent, 78 cents on the dollar. So as a father of two daughters, I want to make sure that there's equality throughout all of that, and unions have helped do that. And so, part of this Committee's ability is to make sure that we are, or our mission, from my view, is to make sure that we have equality and opportunity for all workers.

So, I thank you all very much for your testimony, and with that I yield back Chairwoman Foxx.

Chairwoman FOXX. Thank you, Mr. Mrvan. Ms. Miller, you're recognized for five minutes.

Mrs. MILLER. Thank you for yielding and thank you to all of our witnesses for being here today. My first question is for Mr. Moore. Mr. Moore, my constituents are very concerned about the collapse of the U.S. dollar. How do you think President Biden's proposal to spend 82.2 trillion dollars over the next 10 years including 2.5 trillion in new mandatory spending, is going to impact the dollar in the long run?

Mr. MOORE. Well, Congressman, inflation is by definition a reduction in the purchasing power of the dollar, and that's what your constituents are seeing, month after month after month. It is not true that real wages are rising. Real wages have fallen in the last 2 years. There's a lot of different estimates, but the kind of median one that we looked at, at Heritage, is that the average worker has lost about $3,500 to $4,000 in 2 years.

And look if you're making $70,000 a year, that's a lot of money. That's a lot of money that people are losing because of—and I think the inflation is a direct result. It's like the sun rising in the east and setting in the west. If you spend 6 trillion dollars you don't have, you're going to get inflation right?

We predicted it would happen and it did happen. It went up to 9.1 percent in the summer of 2020. Fortunately, it's come down to 6 percent. I think it's going to continue to drift down, but the damage has really been done. So, there's been long-lasting negative effects to this 6 trillion-dollar spending spree.

We will, in my opinion, Congresswoman, be spending decades to undo the damage that has been done in the last 2 years.

Mrs. MILLER. We need to add the study of economics into our required courses. Maybe that will help us there. Thank you. Could you tell us how President Biden's reckless spending and foreign policy incompetence could lead to the Chinese currency replacing the U.S. dollar as the world's reserve currency?

Mr. MOORE. I'll answer your question this way. I think I would love it if every decision that you made here in Congress on both sides of the aisle was about how do we make the United States and the American workers the most competitive in the world. We all agree in this room we want the American workers to be the highest paid workers in the world.

And the most skilled workers. Frankly, we're not taking competitiveness seriously right now as a country. When you're running a 6 trillion dollars in debt, do you think that makes America more competitive? Obviously not. When you dismantle a lot of American energy we get 75 percent of our energy folks from fossil fuels, oil, gas, and coal. That's how we provide the power that keeps our trucks running, and our factories running.

You know, look, we're not going to run a 23 trillion dollars economy on windmills. It's just a stupid idea, and it just plays into the hands of our enemies. So, who has benefited from these anti-American energy policies? Well let's see, China, Russia, the OPEC countries and so on.

So, one of my frustrations, having worked in the Trump administration, you know the last 6 months I mean look the last 6 months that Trump was in office the economy grew by 11 percent. The economy was booming. We saw huge, huge, nobody thought the recovery could happen a quickly from when we shut down the American economy.

So, if we just stuck with the Trump policies, I happen to think the U.S. economy, we wouldn't be talking about you know, the high inflation. We wouldn't be talking about massive increases in debt. We wouldn't be talking about these problems with small businesses.

So, the policies worked that we put in place in Trump. I'm a little biased. I helped put those in place, but as I said you know, earlier, we had the best economy ever right before COVID. And we've got to get back to the things that work.

Mrs. MILLER. If the Chinese currently does replace the U.S. dollar, what kind of risks are we looking at if that actually happens?

Mr. MOORE. It's a security crisis. It's an economic crisis. It is incredibly important for the whole security of the world, not just the United States. And the economic well-being of the world that the United States retain its world economic superpower status, and that the dollar remains the dominant currency.

Now I don't think there's an immediate danger of some other country, like the Euro or the you know, or the Yuan, or these other countries taking over the United States currency, but if we continue to rack up our debt—because as you know, Congresswoman, we're up to—we're headed to 50 trillion dollars in debt in less than 10 years.

If that happens, then I think that America's status as the world reserve currency will be put in great danger.

Mrs. STEVENS. Thank you. Moving on. Mr. Spear, given the workforce challenges your industry is facing, can you offer any specific ideas or suggestions to this Committee and Congress might consider that would make the workforce development system and overall pipeline for the next generation of American workers, more efficient for them and their employers?

Mr. SPEAR. Yes. I appreciate that Congresswoman. In brief, I can provide more detail on what our recommendations with WIOA and reauthorization. Let's try to turn COVID into something a little more positive. This is a global pandemic. None of us have ever experienced it. And we witnessed something, you know, tragic, but also pretty phenomenal. We saw a lot of sectors of our workforce come together and support our economy. Got us through the pandemic.

Isolate those, work with your other fellow committees to understand what segments of our workforce really contributed when it mattered most. Yes, I'm pretty darn proud of our 3.8 million drivers, getting into their cabs, getting the food, the toilet paper where it needed to be, but also the vaccines, the PPE, the test kits.

We did all of that. And it's a remarkable contribution. If you look at the nurses, the doctors, the EMTs, the people that went to people's doors and helped them get to the hospital and get the care they needed. These are segments of our workforce that contributed when it mattered most. We've identified them and rewarded and incentivize them.

Chairwoman FOXX. I'm going to have to ask you to wrap it up Ms. Miller, because your time is over.

Ms. MILLER. OK, thank you and I yield back.

Chairwoman FOXX. Mr. Courtney, you're recognized.

Mr. COURTNEY. Thank you, Madam Chairwoman. Dr. Shierholz, when we're talking about protecting the U.S. currency, the 600-pound gorilla right now is the approaching default, in terms of the full faith and credit of our paper. Last January, the Treasury Secretary notified the world that we actually had hit the debt limit cap, and that special measures are the only thing that right now protects the dollar and protects our paper from really getting degraded and down valued, which is exactly what happened in 2011, when the brinksmanship was played here.

I was around for that and remember it well. So again, if you could just sort of clarify that. If we're talking about, you know, protecting the currency of this country, which is a very valid concern because China would like to take over as the dominant currency, allowing this country to sleepwalk into a full default is the quickest way to have that nightmare occur; is that correct?

Dr. SHIERHOLZ. That's right. Defaulting on the debt would be just an absolute catastrophe, for sure cause a deep recession. Like there's no question that that would be an unbelievably, an unbelievably catastrophic self-inflicted wound. Making, making, cutting a big deal to keep that from happening also would be a big self-inflicted wound like we did in 2011, where like that 2011 deal to increase the debt ceiling, but at the same time impose massive austerity was the thing that led to the incredibly weak and slow recovery that we had from the Great Recession.

Mr. COURTNEY. And thank you for mentioning that, because you're right. The sequestration agreement that was put into place again suppressed growth in terms of both the defense and non-defense portions of the Federal budget, and as a result depressed growth. Ironically, when President Trump was elected, one of the first things that the Republicans did was to lift sequestration, which again—there again crisis that they created back in 2011, you know, that's where the fingerprints were in terms of putting that into place.

But actually, lifting sequestration benefited the economy, as you I think noted in your testimony.

Dr. SHIERHOLZ. Yes, absolutely. It was like Republicans held the austerity stance until Trump was in office, lifted that and it actually provided substantial stimulus to the economy in the final years of the Trump administration.

Mr. COURTNEY. And as long as we're talking about those 4 years, we actually voted as a Congress really with no drama in terms of lifting the debt limit three times, to the tune of $8 trillion. Again, I think, you know, we should have a legitimate debate in this country about reducing the deficit. But using the lever of default as a way of basically, you know, putting this country at gunpoint, in terms of having to adopt policies that fall outside the appropriations process and the authorizing process, is again another recipe for again suppressing growth in this country, isn't that correct?

Dr. SHIERHOLZ. Yes, and the debt limit makes no economic sense. Like it is not empirically correlated with any measure of actual fiscal health in the economy. It is just an absolutely arbitrary number. To have so much be at stake because of such an arbitrary level, it's just—it's just unthinkable. But that's how we—but that's where we are.

Mr. COURTNEY. And again, so to me there's just no question that, you know, if we really want to do something to help this country, is we need to fix this problem, because the Chinese would love to de-dollarize the world economy in terms of being again, the international standard, in terms of every transaction, whether it's energy, trade, I mean you name it.

Again, talking about how we deal with the labor participation rate in this country, which is—I think that's a valid concern that everybody, regardless of party, should be focused on. I would note, to followup Mr. Moore's kind of rabbit punch on Connecticut, actually our labor participation rate is higher than other parts of the country.

Again, I represent a district which is very defense heavy. We have Electric Boat shipyard, which right now because of the Biden defense budgets over the last 2 years, actually has a stable horizon in terms of submarine production. Last year they hired just shy of 4,000 workers. The total shipyard is at 19,500 workers. This year's projected hiring rate is 5,750. Those are metal trades, design, engineering, and administration.

Again, they are doing great with job fairs. There's one tomorrow actually in New London. If anyone's listening, you know, you're welcome to stop in, and they also are using the WIOA Workforce Board Pre-apprenticeship training pathway, in terms of connecting people, and again increasing the participation rate in the region.

Ten weeks for a welder, 8 weeks for an electrician, 8 weeks for a CNC machinist. And again, if we're talking about ways to try and raise participation rate, there's a skills gap that is definitely holding people back. That is precisely what domestic spending and the

Department of Labor through WIOA actually addresses. Maybe you can comment on that.

Dr. SHIERHOLZ. You know what? That just made me think of another, because I totally agree with what you said, and then another key reason if we really want to raise the labor force participation rate, is we need to do things like maternity leave, paternity leave, childcare, paid leave. Like those are the things that are keeping people out of the labor force when they aren't, when they're not there, particularly women.

Like women's labor force participation rate in the U.S. is falling so far behind our peer countries, who have all of those things and that's the difference. So that's another—like they're both avenues to really get, in the long run get labor participation up.

Mr. COURTNEY. So again, there is just no question that if we increase the number of slots for pre-apprenticeship training in the metal trades, you know, we would hit that goal this year of 5,700 hires. I would just note, because I just was the speaker at an apprenticeship graduating class 3 weeks ago, which again it was folks in the metal trades. It was very—I mean I've been to UConn, go Huskies, you know, commencement ceremoneys, to you know, a lot of other universities that are there.

Going to an apprenticeship graduation ceremony in some ways is the most inspiring, to see how people have transformed their lives using a pathway out of sort of traditional education and connecting to high value, good-paying jobs that can support themselves and their family and do something really important for our Nation. I yield back.

Chairwoman FOXX. Mr. Courtney, I want to note that we failed to turn the clock on when you began, so you had about seven and a half minutes. OK. Ms. Houchin, you're recognized for five minutes.

Ms. HOUCHIN. Thank you, Madam Chair. Thank you all for coming to testify before us today. We appreciate your time. As you may know, Indiana's State motto is the Crossroads of America. Hoosiers take pride in the fact that Highways 40 and 41 were part of the original Federal highway system in 1926, and today 724 million tons of freight travels through our State, making us the fifth busiest State for commercial freight traffic.

Mr. Spear, I want to thank the trucking industry for what our American truckers did to contribute a great deal during COVID, to get products on store shelves and to our homes. I want to express our thanks for the hard work of truckers working through the pandemic, to make sure that things were delivered. It wasn't perfect. Supply chain issues persist, but the trucking industry did not let us down during COVID, and we thank you.

Mr. Spear, in your written testimony you mentioned a talent shortage of nearly 78,000 drivers and 41,000 of the severe workforce challenge to the trucking industry. Those numbers are a bit shocking, particularly considering that drivers in Indiana now average about $60,000 a year and can access full benefits. So, could you touch on some of the other factors that contribute to your workforce challenges?

Mr. SPEAR. Yes. As we said earlier, we've been dealing with the shortage of talent for a number of years, certainly predating

COVID. It certainly got worse post-pandemic, as fewer people were returning to work across all sectors of the economy, and trucking was certainly not isolated from that. So, it inflated from about 50,000 drivers to 78,000. Our technician shortage is from 29,000 to 41,000. We're even short on dockworkers. It is very difficult to get people to come back into the workforce.

Pay has gone up over the last 5 years for drivers, 19 percent higher than any other mode, any other mode in transportation. So, you don't have to have a college degree. You don't carry all the debt that comes with it. You know, we really need to make this an attractive place for all ages, 18 to 20. If you're in your latter years, we have an aging workforce, higher than the national average. We need to provide wellness programs.

We provide the health benefits. We provide the paid leave. We provide all of that, and yet we're still short of talent. So, this is problematic. Training, certainly investing in education and workforce development is going to be key. We're going to be really focused on WIOA and helping you design a bill that really focuses on the segments of our workforce that not only contributed through COVID, but are instrumental for our supply chain, our economy, and the ability to get those 40-year highs in inflation down.

Ms. HOUCHIN. So, recognizing there's no silver bullet, a couple of things that may help would be the Drive Safe Act, or one thing that has been discussed during my time in government is transferring military CDLs to a civilian CDL. So those are some of the things, would you agree, that would be helpful?

Mr. SPEAR. Absolutely. I mean this is one of many things, but the 18 to 20 populace, I said earlier, in exchange 48–49 states allow an 18-year-old to drive. They can't cross State lines. We want them to do that, but we want them to do it safely and responsibly. So, the training and the technology that was in IIJ is something we support, but we need to do it responsibly.

But looking at the military, I mean nobody in Congress I have heard is arguing against sending an 18-year-old over to protect our freedom, yet we do it all the time. The key there is teaching young people how to do their job safely and responsibly, and that's no different than what the trucking industry is asking for with respect to that talent pool.

Ms. HOUCHIN. OK, thank you. With my remaining Mr. Akers, Iowa has been a right-to-work State since 1947. Indiana has been a right-to-work State since 2012, and we were the 23d State in the Nation to be right-to-work. The Bureau of Labor Statistics reported that in Indiana, manufacturing employment increased by 13.5 percent following right to work, compared to an average of just .5 percent during the same period for non-right to work states.

When we provide workers with fundamental free choice rights through right to work, aren't we opening up economic opportunity, and if we had something like the PRO Act, wouldn't we stifle economic opportunity in your opinion?

Mr. AKERS. Absolutely, absolutely. Our workers move all the time. We're in a business where they can go down the street and get another job right now. So frankly, they are making more money than they ever made before. Our wages are up close to 30 percent. So, the PRO Act really just adds a regulation. Frankly, the cost of regulation to small business comes from employees and customers, because we have to pay for that somehow, that's where it's going to come from. Thank you.

Ms. HOUCHIN. Thank you. I yield back.

Chairwoman FOXX. Thank you very much. Mr. DeSaulnier, you're recognized for five minutes, if you're good you get a gold star.

Mr. DESAULNIER. Thank you, Madam Chair. I'm still waiting for my last gold star, but I trust you. Dr. Shierholz, I was taken by you alluded to John Kenneth Galbreath's "Countervailing Institutions," which I'm a big believer in. And so, from a historical perspective, it's frustrating that we get into these arguments and, you know you don't have to read all of Thomas Piketty to accept that an accurate objective analysis, there's going to be a balance. We're not looking at, I mean, and I get frustrated with free market as designed in this building, institution, that we live in a mixed market.

We've gone a long way from people are going to get sick of me using the Eisenhower quote, where he said, at the greatest expansion period in the history of this country or probably any economy, when we had a vibrant middle class during his administration. And he said, President Eisenhower said only a fool would try to stop an American man or woman from attempting to organize if they choose.

So, I agree with the other people. It should be a choice, but we have to have these countervailing institutions. I worry about this economy, and I agree with Mr. Moore on the purchasing power of middle-class people. But my perspective is the causes are different, which I believe you share. So how do we deal with the inequality in terms of capital versus wages, that has gotten worse in the last 3 years?

And that's the way I perceive President Biden's initiatives. It's not trying to get, empower unions for the sake of unions. You need these countervailing institutions in order to get real purchasing power up, that hasn't been up since the ?70's.

Dr. SHIERHOLZ. You said it perfectly. Like I think—like when you think of an employer, an employer has inherent power of an individual worker. The employer loses the worker, it's just one worker. The worker loses the employer, loses their job, that's their livelihood. There's just an inherent imbalance of power. Things like unions, things like minimum wages provide a countervailing power to workers, to create more balance, to create a fair and stronger growing economy. But the sort of neo-liberal deregulatory policies of the last 40 years has really broken that down, and we have seen the result.

Skyrocketing inequality and much slower growth, because we didn't have that bottom-up, middle-out growth that really fuels strong growth. And so, we can kind of—we know the playbook, right, like to reverse the things that were undone to create the scene we're in now. So, raise the minimum wage, raise overtime protections, change labor laws so workers who want to join a union are able to join a union and on and on and on. Those things will make a massive difference.

Mr. DESAULNIER. And for the middle class and for consumers, I'm sorry that my colleague isn't still here, but having owned small businesses for 35 years, a restaurant business that has amongst the higher mortality rates, I always looked at my employees being paid well, but I had to be competitive for people who are playing by the rules.

Sometimes in California, almost a third of the small businesses were in the underground economy. So, we knew that they weren't paying their sales tax, they weren't paying it. Well, I had to compete with them, and it drove this dynamic. But my question is, consistent with what Nobel prize-winning Mr. Stiglitz says, you've got to have enough money for your employees to go out and buy the product. It's the Ford rule, right?

If my workers can't buy the Model T, I'm not going to be successful. So again, could you respond to that?

Dr. SHIERHOLZ. Yep, it really is that getting money in the pockets of people who are very likely to spend it, low-and middle-income workers. That is—that makes our economy stronger, more resilient, faster-growing. That is where we need to go from here, to sort of reverse, halt, and reverse some of the trends of rising inequality and weak growth that we've seen over the last 4 years.

Mr. DESAULNIER. Mr. Moore, you have had some controversy in things that you have said vis-á-vis the labor laws. There is a lot of information. I think the New York Times, or the Post is doing stories now about the tension, where more and more young people are working. I won't remind you of your quote, but I could give it to you that you did at the 2016 GOP Convention.

How do we keep a balance here? I don't disagree with everything you say, but clearly that quote, you've got to make sure that people are protected as well. Would you care to respond to that?'

Mr. MOORE. Well, one of the things that we were proudest of in the Trump administration was the record high expansion of middle-class income. So median household income prior to COVID hitting; COVID changed everything. Median household income grew by $6,200, which was almost twice as much as in 8 years under Obama.

So, we kind of know what works. I completely agree with what you're all saying, that yes, let's build a middle class——

Mr. DESAULNIER. Mr. Moore, I was asking about the disenfranchising of the labor laws, taking away of the labor laws. So, I'll remind you of your quote. "I'm a radical on this, and I'd like to have 11-year-olds be able to work."

Mr. MOORE. Sir, I would defer to my colleagues. They know much more about that issue than I do. I'm not an expert on that by any means.

Mr. DESAULNIER. Artfully done. I yield back, Mr. Chairman.

Chairwoman FOXX. Thank you, Mr. DeSaulnier. Mr. Burlison, you're recognized for five minutes.

Mr. BURLISON. Thank you, Chairwoman Foxx. Mr. Spear, I want to point you to I think it is what is my new constituent.

Mr. SPEAR. Dee Sova.

Mr. BURLISON. Her name is Dee Sova, and I'm proud to have her as a constituent because if you look at her record, it's impeccable. This is a person who has 27 years of driving experience, over two million accident-free miles, and she established the Divas Rock organization to encourage more women to get in the trucking industry, which is—she's just a real leader.

But sadly, she made the news, and this is why I know about her, she made the news because she left California and moved to southwest Missouri, God's country, to work with Prime Trucking. And tell me about why did she do that?

Mr. SPEAR. Well, I guess California's loss is Missouri's gain. She's a wonderful contributor to the economy, certainly to Prime. But she's an independent contractor. She's an independent contractor. African American, mother, putting her kids through college. She understands what it takes to be successful, not just as a mother but as a businessperson.

And she left California simply because of the regulatory headwinds that were put on independent contractors, this AB5 included, and relocated to Missouri, because she knew she could have a successful business model working for Prime, raising her kids, being responsible. But that was her choice. Nobody told her to do that, to pay her less or to deny her medical benefits. She got all of that in spades.

She also knows that her work satisfaction, her pay, her benefits are actually higher under the business model she chose than if she drove as a fleet. It works for her, and it should be her decision, not the government's.

Mr. BURLISON. Right, but we in government like to think that we're smarter than folks like Dee Sova, right. We'd like to think that she shouldn't be doing this. She should be a captive employee and pay—so that she can probably pay dues.

Mr. SPEAR. Well, it's certainly to bolster the union membership and dues. I think that's—this is pandering. I mean these bills are designed for that purpose alone. If you talk to Dee Sova, it's her choice. If she wants to be in the union, she can be in the union. She could certainly make that decision on her own.

Mr. BURLISON. And she couldn't have made the choice to become an employee and stay in California and receive those benefits, because they were offered. That's a path that was fully available, that she chose, like many people. What has been the impact of California? We're talking about the anecdote, but what is the full——

Mr. SPEAR. Oh, the bottom line. When you're short 78,000 drivers nationwide, 350,000 drivers in the country are independent contractors. If AB5 goes forward, that's 70,000 independent contractors in California. You almost doubled, doubled just from that bill becoming law, the number of drivers we're short. She wants to be successful. It's her choice. She's very savvy. She's an America's Road Team captain. We pick them every 2 years. They're the best of the best. They have the best safety records of any drivers out there.

She is a success story, and like many drivers, owner-operators, independent contractors and fleet drivers, some of the smartest businesspeople you will ever come across.

Mr. BURLISON. Thank you, Mr. Spear. I'm actually looking forward hopefully to meeting her someday. Mr. Moore, I think in Congress we have a lot of what I would call economic science deniers, right? At the end of the day, economics is a study. It's a scientific field; correct?

Mr. MOORE: You know, that's a good question. Is it a science or a theology? I think a little bit of both.

Mr. BURLISON. So let me ask you this question. Can we end poverty by raising the minimum wage? Let's say we wanted everyone in America to make $50 an hour. Certainly, that would end poverty, would it not?

Mr. SPEAR. You know look. My opinion on the minimum wage is the best way to get wages up in America is to have better-skilled, better trained, better educated workers. We have the highest paid workers in the world because, you know, we do have highly skilled workers and we need to—and by the way, the other thing you need that really hasn't been talked enough about at this hearing is you need vibrant, small businesses.

One of your colleagues was saying that 65–70 percent of all jobs do come from businesses with less than 100 employees. So, we need to make sure that all the policies are not just oriented toward labor, but also the people, the employers who actually provide the jobs in the first place.

Mr. BURLISON. Thank you. My time has expired. Thank you.

Chairwoman FOXX. Thank you. Ms. Manning, you're recognized for five minutes.

Ms. MANNING. Thank you, Madam Chairman. Mr. Spear, let me just start by agreeing with you on one thing, and that is that the American people do want choice. I believe that was evidenced by the last election. It's just that you and I, I think, have a different understanding of what kind of choice the American people want.

So let me move on, Dr. Shierholz, in my district, we have seen a surge of jobs growing in advanced manufacturing and other industries that require skilled labor. In the previous Congress, I was proud to support bills to expand and streamline registered apprenticeship programs like the National Apprenticeship Act. I was also proud to secure funding for North Carolina A&T State University to implement educational and training opportunities for people who are not full-time college students but want to secure education and training in the STEM fields, so they can fill some of the good, good-paying manufacturing jobs out there.

What additional steps do you believe we should be taking to expand access to skilled training and apprenticeship programs?

Dr. SHIERHOLZ. So I think things—I'm not a, I'm not a workforce expert, but I will say things like making sure that we have good access to union apprenticeships, pre-apprenticeship programs, which really help with diversity, is a way to get like women, people of color into the pipeline, making sure that there's good pathways to—make sure there's good pathways to good jobs following the apprenticeship.

Then can I say just one other thing? When I think about—when I think about increasing labor force participation, it's not just about skills. It's also about making people who have care responsibilities, have them taking—like an ability to take care of them so that they can work. So, things like childcare, paid leave, paternity leave, maternity leave are also just a crucial like stool, of like what is it called, leg of that stool to increase our labor force participation.

Ms. MANNING. So those wraparound services are things that make it possible for people to work, and is it—is it true that we saw more women fail to come back into the workforce during the pandemic and at the end of the pandemic, and do you attribute it to those kinds of factors?

Dr. SHIERHOLZ. Yes it—you know what? I'm not sure exactly where it is right now, but we definitely saw that at least at one point in the pandemic, where you saw women's labor force participation drop more. Basically, labor force participation now is essentially back to where it was pre-pandemic, but it really kept people out during that period, and those with the care responsibilities were the ones that were hardest-hit. As we know, that tends to fall on women.

Ms. MANNING. So, no matter where I go in my district, from hospitals, to schools, to farms, to restaurants, I have employers tell me they simply cannot find enough workers to hire. Do you believe the lack of pathways to legal immigration and the virtual shutting down of immigration by the prior administration has had a negative impact on our workforce?

Dr. SHIERHOLZ. It definitely has. You can just see the numbers, and I think I agree with Mr. Moore here, who also said that like in order to increase our labor force, one of the things that we really need is immigration. Like that's a core part of meeting U.S. workforce needs.

Ms. MANNING. Thank you. Let me ask you about another area, and that is the mental health crisis that millions of Americans are facing in today's environment. The demand for mental health services has steadily increased due to—due to the awareness of COVID–19 pandemic, the opioid crisis. We've had all kinds of factors attributing to mental health crises, and of course, we're seeing, particularly with young people, the impact of social media.

According to the Health Resources and Services Administration, our national shortage of psychiatrists, psychologists, and addiction counselors will be extremely exacerbated by 2035. Can you describe what the economic effects would be if workers couldn't access the mental health services they need, and what can we be doing to attract more people to go into these critical fields?

Dr. SHIERHOLZ. That's a fine question, and I'll just say that we need to make sure that all kinds of health care, mental health services, other kinds of health care that make it possible for people to work, that that is there. So it's just absolutely important that we invest in those things. I think of the decline in State and local government jobs around this, where we know that a lot of that is teachers, but a lot of that is people who provide other services, including things like mental health services.

We need to make sure that the pay for those jobs is good enough that it's really attracting people in.

Ms. MANNING. Thank you so much. My time is about to expire. I yield back.

Chairwoman FOXX. Thank you very much. Mr. Kiley, you're recognized for five minutes.

Mr. KILEY. Dr. Shierholz, you were the chief economist for the Labor Department during the Obama administration; is that correct?

Dr. SHIERHOLZ. Yes.

Mr. KILEY. And you are a supporter of the PRO Act. You testified today that it is a crucial reform; is that correct?

Dr. SHIERHOLZ. Yes, yes.

Mr. KILEY. And you also testified that anyone who is a bona fide independent contractor will not be affected by the PRO Act. Was that your testimony?

Dr. SHIERHOLZ. That's right.

Mr. KILEY. So, as you're aware, the legal standard for independent contracting that is part of the PRO Act has already been implemented in California under State law, the law known as AB5. It contains the same ABC test. So, in reaching your conclusion that anyone who is a bona fide independent contractor will not be affected by the PRO Act, did you speak with the independent contractors who have been affected by AB5 in California?

Dr. SHIERHOLZ. I did not, but I can look at what the AB5, the ABC test actually does. It's a three-pronged test that——

Mr. KILEY. I understand.

Dr. SHIERHOLZ [continuing]. a bona fide contractor really would fit under.

Mr. KILEY. My question was whether—I understand. But my question was whether you spoke with anyone who was affected by AB5 in California as an independent contractor, and your answer was no, is that right?

Dr. SHIERHOLZ. That's true.

Mr. KILEY. So, I have spoken with many of these folks. I'm from California, and as a matter of fact, shortly after that law went into effect, we compiled a whole book of their stories about how they have been affected by this law. AB5 Stories: Testimonials of Californians Who Have Lost Their Livelihoods. This was just in a few days after the law was out there. You could fill many more volumes by this point.

And so, since you didn't have the opportunity to speak with those who have been affected in reaching your conclusion that those who are bona fide independent contractors will not be affected by the PRO Act, I thought maybe I'd share with you a few of their stories.

For example, here is testimony from Colleen. Colleen says "I am a court reporter in California that does depositions. I do work for many different firms. Two firms have already notified me that they can no longer give me work. I am the one who supports my family, and I have been doing this work for over 30 years. I'm not sure what to do now."

Dr. Shierholz, does the testimony of Colleen in any way change your conclusion that anyone who is a bona fide independent contractor will not be affected by the PRO Act?

Dr. SHIERHOLZ. It does not, because one of the things that's core, is does Colleen want to organize, because that's what will be affected under the PRO Act. What it does is, it means that people who are misclassified as independent contractors, who are not independent contractors will—the only way it affects them is if they actually want to organize. That's the thing. So, if there's people who are—yes. If Colleen wanted to organize, then I could say maybe that would be an impact.

Mr. KILEY. OK. So, here's another person, Esther. She says "I help people who don't speak English communicate with medical providers. I'm a proud senior, independent and self-sufficient. AB5 leaves me out of work, unprotected and isolated. It takes away my pride. It was passed without taking people like me into account." Does the testimony of Esther affect your conclusion that anyone who is a bona fide independent contractor will not be affected by the PRO Act?

Dr. SHIERHOLZ. Not by the PRO Act.

Mr. KILEY. This is from Jody. "I worked years to gain my skills in American Sign Language interpreter. It was my goal since I was 9 years old. After AB5, I lost all three of my agencies. The dream I worked for is lost. I can't provide for my family and thousands of California deaf won't be serviced." Does the testimony of Jody affect your conclusion that anyone who is bona fide independent contractor will not be affected?

Dr. SHIERHOLZ. I have heard anything that what is going on in the PRO Act is going to affect those folks.

Mr. KILEY. The PRO Act contains the same ABC test as AB5, does it not?

Dr. SHIERHOLZ. Yes, but it doesn't affect like wage and hour law. Like it is only for—it only affects your status vis-á-vis the NLRA.

Mr. KILEY. This is from John. "I am a guest orchestral conductor. Because of this bill, I just lost my first scheduled job with an orchestra, $9,000 that would have been a dent in my student loans or help pay my insurance, or pay for food and shelter is now gone, all because of AB5." Are you still sure that adopting this legal standard for independent contracting on a nationwide basis either for the PRO Act or the Department of Labor's proposed rule is not going to affect any bona fide independent contractor?

Dr. SHIERHOLZ. Again, we're talking—the PRO Act, the Department of Labor's rule, the proposed rule that they just put out, does not implement the ABC rule. So that's not what we're talking about. We're talking about the PRO Act, which does implement the ABC rule only for the NLRA and none of the examples that you have given me——

Mr. KILEY. Thank you.

Dr. SHIERHOLZ [continuing]. have had anything to do with labor laws.

Mr. KILEY. Mr. Spear, you've testified as the head of the American Trucking Association about the potential losses of livelihoods from the PRO Act. What were the numbers that you gave?

Mr. SPEAR. Well just on ICs alone, you've got 350,000 drivers operating under that model nationwide, 70,000 in California alone. We're right now short 78,000 drivers. So, you want to continue inflation at 40-year highs? Start getting rid of more of our drivers. I guarantee you you're going to pay double if not triple what you're paying at the shelf right now.

Mr. KILEY. And so, despite whatever limitations Dr. Shierholz just tried to tell us, you think that these impacts would be felt as a result of——

Mr. SPEAR. You've got a live rulemaking over at the Department of Labor right now that deals with this. So, it's not just the PRO Act. This is an all-out assault on a 90-year-old case law supported business model. Why is that? Why is that? It's because union rates have dropped to half of what they were in 1983. They're struggling for membership; they're struggling for dues. So, what better way to change that than to change the laws, change the rule so you can channel more people into unions.

I don't care if you're a union member or not. You should have the right to belong or not belong. That doesn't—just because you're struggling to organize doesn't mean you get to change the rules in your favor. These laws have been around for 90 years. NLRA was passed in 1935. FSLA 1938, relatively unchanged. Why? Because they maintain the balance between employers and employees.

This is a concerted effort to change that, and the only reason I can see doing so is to up membership and dues. That's it.

Mr. KILEY. Thank you. I yield back.

Chairwoman FOXX. Mr. Spear, Mr. Kiley, I'm hoping to get this hearing done before 1:30 and the votes are coming. So, I'm going to ask people to please stay within their time. Ms. Bonamici, you're recognized.

Ms. BONAMICI. Thank you, Madam Chair. I'm really appreciative of the Committee's focus on workforce development. But I have to say I'm disappointed that many of my colleagues seem to be decoupling workforce development from workforce protections, and I really see finding solutions to grow the workforce and implementing fair labor standards should not be mutually exclusive. I think that those fair labor standards, fair wages, safe working conditions, the right to organize, those should be part of workforce development.

You know last Congress, we passed the Infrastructure and Investment in Jobs Act and the CHIPS and Science Act, both on a bipartisan basis. We continue our commitment to American workers by creating pathways to good-paying family jobs. The Inflation Reduction Act, for example, lots of jobs there. We also advanced the bipartisan National Apprenticeship Act reauthorization in the House, and Committee Democrats also advanced a comprehensive reauthorization of the Workforce Innovation Opportunity Act.

So, I just want to note quickly they had a lot of conversations about apprenticeships, and I know Dr. Shierholz you mentioned pre-apprenticeships. Those are really critical too in conversations I've had with pre-apprentices, a huge deal. Mr. Spear, you correctly described the important role that truck drivers fill in our economy by delivering critical goods relied on by families in my State of Oregon and around the country. So, thank you for keeping our economy moving forward.

And I'm also glad to see in your testimony you are recognized as a—you are a registered apprenticeship program sponsor. Registered apprenticeships are good for workers and employers because of the high-quality training standards and strong protections, but also provide a return on investment. So, your testimony mentioned there were delays in the registration process.

Well, the bipartisan National Apprenticeship Act helped streamline that registration process, actually requires that the Department of Labor give provisional approval within a month and final approval within a year. Would that be helpful in access to registered apprenticeships, would it to help fill the truck driver shortage?

Mr. SPEAR. Yes. It's instrumental. It's one of the things that we've promoted and advocated for several years throughout the Trump administration, Biden administration. Finally got it done, finally got it done. And by the way, it's an apprenticeship program. There are union apprenticeship programs and there are non-union apprenticeship programs.

Ms. BONAMICI. Right. I appreciate that, and I want to ask a question of Mr. Akers. I just wanted to make sure that that provision was going to be helpful.

Mr. SPEAR. Absolutely correct.

Ms. BONAMICI. Mr. Akers, in my former life I was a practicing lawyer, and I represented franchisees. So, I very much appreciate the franchise model. I had a lot of clients who are franchisees. So, your testimony claims that this PRO Act's joint employer standard and the standard that the NLRB is considering reinstating would undermine the franchise relationship.

But in reality, the joint employer standard was around for years before, and holds companies accountable only if they control the employment relationship of another employer's workers. The wages, the hours, the working conditions. So, I'd like to ask you a few questions. These are yes or no questions. Does your franchisor control the hiring and firing of your employees?

Mr. AKERS. No.

Ms. BONAMICI. And does your franchisor set your employees' wages?

Mr. AKERS. No.

Ms. BONAMICI. And does your franchisor set your employees' schedules?

Mr. AKERS. No.

Ms. BONAMICI. OK. So, Mr. Akers, to the best of my knowledge, the NLRB has never issued a decision finding a franchisor to be a joint employer of its franchisees' employees, because that's not the kind of relationship. And in fact, if your franchisor does not control your employees' working conditions, does not control those issues, the wages and schedules, then the joint employer standard doesn't affect you or other franchisees.

In fact, a strong joint employer standard actually protects you, because it makes it more likely that franchisors won't try to control your practices and your employment practices, and if they do, they'll be on the hook for liability. So that's why the American Association of Franchisees and Dealers, which is a franchisee organization, supports the PRO Act's joint employer standard and supports the current rulemaking that would restore the Browning-Ferris decision.

So, Madam Chair, I request unanimous consent to enter into the record letters from the American Association of Franchisees and Dealers into the record.

Chairwoman FOXX. Without objection.

Ms. BONAMICI. Terrific, and I just want to reiterate the importance of these workforce protections, the right to organize, the right for fair wages, the right for safe working conditions, and we have had a conversation today. One of my colleagues talked about how, you know, wages haven't kept up with costs. We need to raise the minimum wage. $7.25 is our national minimum wage, and that's unacceptable, so that's something we should be talking about as well.

I hope we can work together Madam Chair and Ranking Member Scott on bipartisan solutions like we did with the National Apprenticeship Act. I hope we can get that over the finish line in the House and the Senate, because it's really going to make a difference not only to the people who go through the apprenticeships, but also to their families and set a good example of getting people back to work. So, with that Madam Chair, I will submit the letters and yield back the balance of my time.

Chairwoman FOXX. Mr. Good, you're recognized for five minutes.

Mr. GOOD. Thank you, Chairman Foxx. Thank you to all of our witnesses here today, and my questions will be primarily directed to Mr. Moore. Mr. Moore, I think perhaps the most under-appreciated in terms of its harm of all Democrat legislation in the last Congress was the PRO Act, what it would do to just destroy the gig economy, subcontractors, independent contractors, you know, require—eliminate secret ballots, eliminate right to work, I mean force the payment of union dues from payroll deduction and so much more.

At 10 percent for all sectors on average, the Nation's union membership is declining thankfully. It's at its lowest level ever, thankfully. But that is skewed because it's 33 percent for public sector employees, and it's about 6 percent for private sector. I would submit that public sector union membership should be illegal. It's contrary to the interests of the taxpayer, the country and the citizens that we are supposed to serve, and not to mention the fact that public sector employees have, you know, highly desirable salaries and benefits, retirement programs, and job security compared to the private sector.

Our President promised to be the most pro-union president in history. He kept that promise, along with his promise to eliminate reliable energy, his promise to open the border, not to mention the bonus of the unprecedented spending. The administration is trying to follow through, is trying to take action through NLRB and the Department of Labor to implement provisions of the PRO Act because it hasn't been able to successfully become law thankfully.

What do you think is the impact of these pro-union policies, the administration putting their thumb on the scale, trying to force union membership increase in the private sector? What do you think is the—what are your concerns on that impact primarily on businesses and employers?

Mr. MOORE. Congressman, I agree with everything that you just said, that the real problem is public sector unionism. The problem is you don't have anybody protecting the taxpayer interests, you know, in the negotiations of the contract. That's why, you know, most public employees, with respect to how they compare with their private sector counterparts, depending on the State or whether it's Federal, get 20 percent bonus in terms of salaries and much, much higher benefits. That's not fair to the people who are paying their salaries.

I just want to make it very clear. I don't think anybody in this room is against unions. Are you against unions?

Mr. GOOD. I am against unions, yes sir.

Mr. MOORE. OK. Well, I mean I——

Mr. GOOD. I worked in a union shop in college.

Mr. MOORE. I believe in the First Amendment, that people have a right of association. Unions are associations.

Mr. GOOD. I am not against the right to unionize, but I think it's a terrible decision when you do.

Mr. MOORE. OK, well that's it. But my point is look, I'm very much—if people want to form a union, if six people want to get together and collectively bargain, that's your right as an American. I'm just outraged by the idea that anyone in America should be forced to join a union.

Mr. GOOD. That's right.

Mr. MOORE. Yes, why? Why should someone be forced to join a union if they don't want to. I mean pro-choice. So, and just one last point about this. I mean the evidence is crystal clear, undeniable. We have half the states in the United States are right to work states, and half the states are forced union states. Guess where all the jobs are going, you know? Twice as many jobs are being created in the states that have right to work laws.

When I worked at the Wall Street Journal, as I was saying earlier, we talked to, you know, major employers all the time. They said you know what? If a State is a forced union State, we don't even think about putting a factory there and so on. The tragedy unfortunately, what happened to Michigan just a week ago, which had been a right to work State and has now turned into a forced union State, and that's going to really hurt the great State of Michigan.

Mr. GOOD. Yes. Businesses and citizens are voting with their feet and fleeing these terrible blue State, blue Democrat-run blue states and these pro-union states and going to right-to-work states, as you said. I would submit that unions have far outlived their usefulness and this us against them mentality is just a terrible thing in the workplace, and again I experienced that as a college kid working in an auto factory.

I want to switch gears for a moment and talk about the labor participation rate. You know, the Biden administration likes to talk about low unemployment. We've got an estimated seven million able-bodied men ages 25 to 54 not in the workplace, 11 million open jobs, lowest historical labor participation rate. How have the elimination of work requirements and enhanced unemployment, all of that? What are your thoughts on the policies that have caused the low labor participation rate over the last couple of years in particular?

Mr. MOORE. So, I'm so glad you asked that, because there's been some misinformation here about the work requirements that were put in place in 1996, which I said the greatest social policy achievement we've made in 50 years. So, I'm just going to really just quickly rattle off the four effects of that after 8 years, OK, and then you can decide whether you think it was a success or not.

And these are based on, you know, scientific studies. One, welfare caseloads were reduced by 60 percent, 60 percent after welfare reform and work reform was put into effect. Two, 60 to 70 percent of those who left welfare went into jobs.

Mr. GOOD. How about that?

Mr. MOORE. It went into jobs. They got a paycheck. Third, the CBO and the Congressional Budget Office says that those reforms saved taxpayers and the Federal Government $50 billion. In today's dollars, that would be a saving of $100 billion. And fourth, and maybe most importantly, child poverty fell every year. Child poverty fell every year after we passed welfare reform. Somebody tell me how that's not——

Mr. GOOD. The case is clear. I'm past my time. Thank you, Mr. Moore. You're exactly right. Thanks for sharing that. I yield back, Chairman.

Chairwoman FOXX. Thank you very much. Ms. McBath, you're recognized for five minutes.

Mrs. MCBATH. Thank you, Chairwoman Foxx and Ranking Member Scott and your staff, and all of you that are giving testimony for us today. I'd like to say to my Republican colleagues, if you truly want to unleash America's opportunities for hiring and employment, the solution is not to villainize and victimize our unions and our working people, because oftentimes, you know, their only real voice is in the workplace.

The real solution to this problem is empowering and investing in our workers and our workforce development system. And I look forward to doing that very thing with my Republican colleagues at the earliest point that we're able to find that we have an opportunity to do so. However, the solutions that are being touted by Republicans today will do nothing more than to solve the major—do nothing to solve the major issues that are facing our employers.

They'll do nothing to reverse the decades-long trend of declining public investment in our workforce development programs and initiatives across the country. Instead, they will only do more to tip the scale even further against working families and everyday Americans, who are punching the clock just to get by. Since it was signed into law in 2014, the Workforce Innovation Opportunity Act or WIOA has assisted millions of American workers in learning more about obtaining the skills and training required to succeed in today's economy.

While this was an important bipartisan step in the right direction, WIOA has unfortunately never been fully funded and able to live up to its full potential to serve the American public. In fact, the Federal Government spends significantly far less today on workforce development programs than it did over 20 years ago in 2001.

So, it's vitally important that we reauthorize WIOA and ensure that this program gets the secured funding necessary to fulfill its intended purpose. And my bill, the Train for a Better America Act, which was included in the WIOA Act of 2022 that passed the House last Congress, would assist community colleges and technical training schools and connecting recent and upcoming graduates with local employers in high demand fields, by codifying the Department of Labor's Strengthening Community Colleges Training Grant Program.

It would take real tangible steps to fix our workforce pipeline and make it easier on companies that are looking for talent, and on workers that are seeking to better themselves through hard work and education. So instead of playing politics and sending messaging bills to die on the—die with the Senate, we can expand upon these programs and efforts like this.

Programs that are already on the ground and proven to help fill the very real workforce shortages in areas like construction, which we're talking about today and nursing, that we all hear about when we meet our constituents back in our districts. I talk to people in my district all the time that talk about all of the really difficult ways that they're being able to find work. Well, when they take the time away from their families to fly up here and to sit in these hearings and to tell us the same stories.

So, Mr. Spears, I mentioned in my remarks we've seen a declining investment in our country's workforce programs for decades. Because of these funding shortfalls, many local workforce boards are forced to cap the funding mechanisms that they use to train workers, and this is also, you know, the ITAs. So, should Congress expand funding to ITAs to help cover the full cost of these training programs?

Mr. SPEAR. I think there's a role to play as you consider reauthorization too, you really have better alignment and cohesion between the Federal, State and the local workforce boards, identifying those pockets of need, where those dollars are going. They're valuable dollars, and they need to be going to employment sectors that are going to not only to support that local economy, but State and national economy.

So, I think the alignment and cohesion between Federal, State and local boards is absolutely essential. Channel that money as wisely as you can down, and making certain it gets to people that not only get a job, but a job that's going to contribute, you know, to the economy going forward is really, in my view, the essence of WIOA.

Mrs. MCBATH. And so, the ITAs are only worth about $2,000. Is that sufficient? Is that enough money to enhance training for workforce development?

Mr. SPEAR. We have everything that could cover. You know, a lot of our training does take more than just that amount. I do think we have a lot of employers that want to support covering the cost of employees that, you know, get their CDL, get that training.

You know, I think there is prioritization at the workforce boards of truck drivers, for instance, the skills they're going to need, designating them as essential skills in demand, and reimbursing them for the cost that it takes to get those CDLs. Those costs have gone up, and I think the bill needs to reflect that.

Mrs. MCBATH. Well, thank you. My time is up. I yield back the balance.

Chairwoman FOXX. Thank you. Mr. Smucker, you're recognized for five minutes.

Mr. SMUCKER. Thank you, Madam Chair. I appreciate the opportunity to hear from each of our witnesses today regarding the opportunities that we have to unleash our workforce and get our economy back on track. Two years into the Biden administration, we're still facing significant problems encouraging American workers to return to work.

And in fact, as some of our witnesses have pointed out, there are roughly ten million open jobs in our country today, and only about five million people, are looking for employment. We heard earlier from one of our witnesses that our labor force participation rate seems to have reached its highest, seems to be higher than the highest participation rate just prior to the pandemic.

That same idea was presented by Secretary Yellen at a Ways and Means Committee hearing. But this chart shows otherwise, and this chart shows labor force participation rate prior to the pandemic. You'll see the high. Top is women and men. It shows that in both cases, we have not achieved the labor force participation rate that we'd seen prior to the pandemic. This by the way is millions of workers who haven't returned to work.

We really need more people entering the workforce, rather than leaving. I do believe there are multiple reasons for this, but one of the reasons is the Democrat policies that are disincentivizing work. In fact, as we heard in Mr. Moore's testimony, if you add up normal unemployment benefits, health insurance benefits, unemployed individuals in the State that I represent, Pennsylvania, would receive a benefit equal to an earned income of $82,888. Now tell me how that encourages work? You can make a great living just by staying home apparently.

And as I travel around my district and I've heard from all of you here, workforce shortages are the No. 1 issue that I hear about from small business owners, followed by inflation and also supply chain issues. During the pandemic, Democrats enacted policies in the bloated American Rescue Plan which paid workers more to stay home than to return to their jobs. In Pennsylvania, that was about 42 percent, literally could make more staying at home than returning to their jobs.

I don't fault anyone for making that decision. I've often said it was a deeply unfair position for the Federal Government to put families in, to tell workers that to stay home is a better way to provide for their families. I was encouraged by some of the comments from my Democrat colleagues, talking about we all understand the need to return people to work. We understand the best way out of poverty is to provide an individual, help an individual connect with a great-paying job.

There's an inherent dignity in that work and it provides that first rung in that upward ladder of mobility. The current workforce shortages that we're facing, as I said, are directly tied to Democrats' failed pandemic-era policies that closed our businesses, closed our schools and shuttered our economy. All of our witnesses have agreed that skills development is a necessary component of our economic recovery, and I believe that we should enact policies that put job creators and businesses in the driver's seat, because local businesses know best what kind of workers and qualifications, they need to fill those open positions.

I want to just mention a bill I recently reintroduced, the USA Workforce Tax Credits Act, which would create a new tax credit for charitable donations to community-based apprenticeship initiatives, career technical education and workforce development programs. This legislation is modeled, it's similar to a K through 12 EITC program in Pennsylvania that works very effectively, creates strong partnerships between local businesses and in this case K through 12 programs, and leads to direct benefits for our communities.

For far too long at the Federal level, we focused all of our dollars only on those individuals who are attending college. We've encouraged everything to do that. We need to rebalance that. This would be a way of doing that, while utilizing those partnerships between businesses and those who provide those services.

I also want to mention, proud to co-sponsor the Pell Act legislation, which would expand Pell grant eligibility to high quality, short-term educational credentialing opportunity. There is bipartisan support for that. These two pieces of legislation will expand opportunities for Americans to get training, so they can start in-demand careers with family sustaining wages, grow our economic output and our GDP. I think I'm already out of time. I was looking forward to getting some questions, but I took all of my time. Thank you for being here.

Chairwoman FOXX. Thank you, Mr. Smucker. Mr. Moran, you're recognized for five minutes.

Mr. MORAN. Thank you, Madam Chair. Mr. Akers, I want to address you for a few minutes and ask some questions, but before I do, I just want to thank you for being here on behalf of the International Franchise Association. I also was a franchise business owner before I came to Congress and was privileged to be in the staffing company business and understand a lot of what's being said today firsthand and have a lot of great concerns about what I see in the PRO Act, and what I see with the proposed NLRB rule for joint employers.

It gives me great concern, and it did before I came to Congress. As a small business owner, what I found out pretty quickly was if I had good control on the local level, and if my business was able to do better, I had better opportunity, more opportunity to do better for my employees. In fact, that's what we did. Whether it was through rent assistance or clothing or pay advances or frankly even purchasing automobiles for people so they can have reliable transportation.

As the employer of record, I wanted to do that for my employees because I could build into them, and then that created a partnership between my employees and me, and it created longevity in that relationship. I didn't need the government to tell me what a minimum wage should be, because frankly the market set that. I wanted to pay folks enough so that they could stay, and they would stay and be loyal to me, and provide a great service to our community.

As a result, we would place hundreds of people in work daily in multiple states, and I was proud to be able to do that. So, I want to go back to you and talk to you about your statement and your written statement that says, "Franchising is perhaps the most important business growth strategy in American history." Tell us a little bit about what you've seen firsthand, about what that franchise business model allows you to do for your employees and for your clients?

Mr. AKERS. Oh, great question. Thank you for that. We love our employees. Our employees are part of our family. We take care of them like they are family members. My wife's title on her business card is chief hugs officer, and every month she goes around to all the salons and talks to the staff. So, we pay above normal wages.

We've got—I've got stylists that barely graduated high school that are making 65 to 80 thousand dollars a year plus a full slate of benefits including 401(k), which I contribute to, and recently we went out and bought a daycare so we could subsidize daycare for our single moms and so on.

So, we really believe we give them the best we possibly can. We do lend money, do payroll lending. We allow them, we allow them to buy products that they can pay over a period of time for, you know, tools and things like that. We have loaned literally hundreds of thousands of dollars to our staff for those short-term issues with rent and things like that. I mean it really is a big family where we're helping each other out.

When you put more regulation on that as I mentioned before that money got to come from somewhere. Truthfully, the same thing happened with Obamacare, because we were giving amazing care to our staff, and we had to take—we didn't take it back, but we were forced into a pigeonhole with what was offered, that didn't meet what we were already doing. But by law, we were regulated to do it.

Mr. MORAN. So, if we take away this franchise business model, who is it that's going to be harmed the most, and who is it that benefits? Because I think that that informs really the behind-the-scenes motivation for this push.

Mr. AKERS. Well, you're going to stifle the growth of business. Why would people buy a franchise when they're going to be under that kind of regulation? But mainly you're going to hurt employees, because we create jobs. We've created hundreds of jobs in the last few years by opening new locations and so on, and there is really no incentive to do that once you put this in place.

I was a proud union member when I was very young for about 6 months, and I discovered I could go down the road and get the same job for the same money or more money, and frankly right now there are jobs available on every corner in Iowa and Nebraska. So, if somebody wants a better-paying job, even if they're not skilled in that area they can go down the road. Our staff stays with us long term, because they can't find what we offer anywhere else.

Mr. MORAN. And Dr. Shierholz earlier said, and I wrote this quote down. We need to "get more minorities into the pipeline, the pipeline of owning businesses." Do you think that the franchise business model provides those opportunities for minorities, for women, for veterans to start a business and to begin a business and to grow a business?

Mr. AKERS. The percentages are clear. IFA did a study a couple of years ago, Oxford Economics. The percentages are much higher. I think it's 25 percent owned by people of color, as opposed to 19 percent in the normal world we look at in business. Profitability is higher, revenue is higher, and it allows people who couldn't go out and open their own business a pathway to do that, which is why there's a much larger percentage of the underserved population going into the business world.

Mr. MORAN. Well Mr. Akers, I certainly appreciate what you've done for your employees, for your clients, and your testimony here today. I completely agree with you. I think this business model's imperative to allowing folks an easier way into owning their own business down the line.

Mr. AKERS. And if I could tag on that, this FTC franchise rule is the No. 1 way you protect business owners when they're looking at becoming a franchisee, that you know what the revenue is, you know what the profits are because of the guidelines that are covered under the FTC franchise rule. So as an entrepreneur, I can make a logical decision about buying a business or going to another one.

Mr. MORAN. Thank you, Mr. Akers. I yield.

Chairwoman FOXX. Thank you very much. Mr. Scott, you're recognized for five minutes.

Mr. SCOTT. Thank you, Madam Chair. A lot has been said about the PRO Act, and how it makes the—undermines the right to work law. The PRO Act does not require you to join a union. It does require you to pay your fair share of the expenses generated, the things you benefit from when the union hires lawyers and accountants, and you get higher pay or if you get individual representation, because they provide individual representation to union members.

Those costs cost money and the PRO Act just requires you to pay your fair share of those expenses. Not the cost of the holiday party or the union cookout in the middle of the summer or voter registration activities. Those things that you're actually benefiting from, but you're not required to join the union.

Ms. Shierholz, on independent contractor we've heard a lot. If you're misclassified as an independent contractor rather than an employee, do you lose you right to minimum wage and overtime?

Dr. SHIERHOLZ. Yes, you do.

Mr. SCOTT. Do you lose your right to unemployment insurance if you lose your job?

Dr. SHIERHOLZ. Yes, you do.

Mr. SCOTT. And worker's comp if you get hurt on the job?

Dr. SHIERHOLZ. You lose that too.

Mr. SCOTT. So, who is actually choosing to classify people as independent contractors?

Dr. SHIERHOLZ. It's a good——

Mr. SCOTT. We hear that—it sounds like the employees are choosing, wanting to be independent contractors. Is that the case?

Dr. SHIERHOLZ. What we see is that workers, when they are misclassified as independent contractors, lose thousands every year like truckers. We did an analysis, I can put it in the record, that truckers lose 11 to 18 thousand dollars a year when they're misclassified as independent contractors. It is not a model that works for workers.

We don't have any workers on this panel. If we asked the workers, we know what they know that they lose, and then the other thing that I just wanted to make sure to correct, because there were some mistakes talked about. There was a comment that the joint employer rule, that the NLRB joint employer rule would cost franchisors $33 billion. That was an IFA study that was terribly designed. It had a sample size of 54 and they were all IFA members.

So, we did a really rigorous analysis showing that the NLRB joint employer rule would raise wages for workers by $1 billion.

Mr. SCOTT. Thank you. We've heard social supports. People don't work because they're getting social support. Was there a study done about the impact of some states eliminating the $600 plus up for unemployment compensation, and other states not doing it? What was the result?

Dr. SHIERHOLZ. Yes, that's one of the things. If it were true that pandemic unemployment insurance benefits really were keeping people out of the labor force en masse, then you should have seen a flooding back into the labor force once those things expired, and that did not happen. If you look at like a time series of what happened with the labor force when pandemic unemployment insurance expired, you can't see a blip. It just does not show up. It did, it was not the thing that was keeping people out of the labor force. It was the pandemic.

Mr. SCOTT. Is there any evidence that raising the minimum wage gradually costs jobs?

Dr. SHIERHOLZ. What we know from the vast evidence in labor economics of what the economic impacts of increasing the minimum wage is that they raise wages, they reduce inequality and they do not cause substantial job loss.

Mr. SCOTT. Now we've heard a lot of disparaging comments about today's economy. I'd just refer people to the chart behind me, the pre-pandemic economy versus the post-pandemic economy. Can you make any comments, and I'll also point out that President Biden produced almost 500,000 jobs a month during a pandemic, when President Trump was losing a record number of jobs during the pandemic, and he did it—President Biden did it while he was lowering the deficit? Can you make any comments about the relative economy?

Dr. SHIERHOLZ. Yes. One of the things that we've heard is that the Trump—the economy going like at the end of the Trump administration was really strong. That's actually true, but it wasn't because of Trump policies. Trump inherited an unemployment rate that was steadily going down, an employment rate that was steadily going up.

If you look at those time series, you can't see where Trump took office. Nobody gets to take credit for just sustaining an existing trend. Then what we do know is that the Biden administration, with like the American Recovery Plan, absolutely drove the incredibly strong jobs recovery that we have.

Mr. SCOTT. Thank you, Madam Chair. Yield back.

Chairwoman FOXX. Thank you very much, Mr. Scott. Mr. Spear, with nearly 11 million unfilled jobs in the United States, many critical industries are facing a significant shortage of skilled workers. Yet only a third of individuals in the WIOA program are participating in skilled development activities, with some local workforce boards spending less than 20 percent of their funding on reskilling workers.

Do you agree that WIOA must place a greater emphasis on skills development if we're going to address our Nation's worker shortage?

Mr. SPEAR. I do. I do, Madam Chair. I'm very fond of this law. I actually worked on it back in 1998 when it was called WIA, Workforce Investment Act, and it's an evolution. This is a law that needs to reflect the latest trends in your workforce. Just keeping up on innovation is tough enough for Congress. It's happening so fast.

You know, we didn't predict that we'd have a global pandemic, and it caused a lot of shifts in our workforce, and our business model in trucking for that matter, and how we serve people that order everything now from home, and they want it in less than 2 days. So, these shifts are really recent. So, updating this law and empowering those local workforce boards to really focus on the segments of the workforce that got us through the pandemic, that matter most, that pay well with benefits.

We're not paying minimum wage in trucking. We're paying nearly 70 grand plus benefits, and we're talking paid holidays, paid leave, lodging, meals and incidentals, life insurance, health insurance and retirement plans. This is a good occupation.

Chairwoman FOXX. Thank you. Thank you, Mr. Spear. Mr. Akers, very quickly, because I'm running out of time. Very quickly, our economy needs small business owners like yourself, and many of your franchisees. Give me two of the most significant workforce challenges you face as a franchise owner. Just name them.

Mr. AKERS. Two. Staffing, No. 1. No. 2 is regulations that we're already putting in place ways to deal with.

Chairwoman FOXX. Right. Thank you very much. Mr. Moore, just now my colleague from Virginia, has talked about pre-pandemic and post-pandemic job numbers. By the chart, they've compared the jobs record of the Trump and Biden administration. At the beginning of the hearing and now again, what are your thoughts about their characteristics of the Biden and Trump administration, in terms of the job record?

Mr. MOORE. Well, I'm looking at the chart. You know, the problem of course is we lost, I don't even know how many. How many jobs did we lose during the pandemic? I mean it was in the millions of jobs. So, you know, obviously that changed everything. Trump had a very, very positive jobs record until COVID hit.

So, I guess that's my attitude. Look, I do think that if you look at what happened, there were two factors that really affected employment. One was obviously the shutting down of the economy, and the blue states remained closed much longer than the red states did, and the other factor is the supplemental unemployment benefits and other benefits that were five or six additional—if you look at my testimony, you'll see during that period, people could make like well over $100,000 in all the benefits that we were providing for people not work.

One piece of evidence that it really mattered was that when red states got rid of the supplemental benefits faster than blue states did, their unemployment rates went down, and the blue states' benefits stayed high.

Chairwoman FOXX. Thank you very much. I also want to point out that in your testimony, you talked about there being dignity in work. I cannot agree more. I believe that work is inherently dignifying. However, too many Americans were encouraged to stay out of the workforce following the pandemic, and I think it's important that we now encourage people again to get back into the workforce, because the long-term benefits of work, as you pointed out with the welfare reforms that were made in the 1990's—under the Clinton administration in 1996, I think it changed people's lives for the better. I yield back my time.

I want to thank our witnesses again for taking the time to testify before the Committee today. It's been a very energetic set of testimonies and questions. Without objection, there being no further business, the Committee stands adjourned.

[Additional submission by Ms. Bonamici follows:]

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December 7, 2022

Lauren McFerran
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1015 Half Street, SE
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National Labor Relations Board
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Re: AAFD Comments on Proposed Joint Employer Rule (87 Fed. Reg. 54641)

Dear Chairman McFerran and Ms. Rothschild:

On behalf of the American Association of Franchisees and Dealers ("AAFD") and its franchisee members, we respectfully offer our views and perspective on the September 7, 2022 National Labor Relations Board proposed rule that would expand the joint employer definition under the National Labor Relations Act. The joint employer debate is critical to the long-term equity ownership question of the franchised businesses.

AAFD is the oldest and largest national not for profit trade association advocating the rights and interests of franchisees and independent dealer networks. The AAFD supports more than 60 independent franchisee associations and trademark specific chapters, representing thousands of franchisee operated business outlets. Since our establishment in 1992, the AAFD has focused on its mission to define, identify and promote collaborative franchise cultures that respect the legitimate interests of both franchisors and franchisees, cultures we describe as embracing our vison of *Total Quality Franchising®*. The AAFD came into existence in response to a franchising community that has been evolving towards increasingly one-sided and controlling franchise agreements and cultures whereby franchisee equity and business ownership has been continually eroding such that many modern franchise systems have lost all vestiges of business ownership.

Interestingly, instructively and importantly, we make special note that the very issues that inspired the formation of the AAFD have also given rise to the Joint Employer doctrine.

For the reasons set forth below, AAFD urges the NLRB to adopt a joint employer standard that respects NRLB's decision in *Browning-Ferris Industries of California, Inc., d/b/a BFI Newby Island Recyclery*, 362 NLRB No. 186 (2015), and reaffirmed by the Court of Appeals for the DC Circuit, yet takes into account the unique relationships between the franchisees and franchisor needed to protect the brand.

Franchisor Community Misdirection Regarding the Definition and Foundation of Joint Employment Status.

Franchisees respect a franchisor's ownership and control of its brand and a legitimate right to enforce system standards to protect the brand, and franchisees depend and rely on the list of benefits and support services from their franchisor. We do not believe that the many services franchisors historically provide to franchisees, and which have been disingenuously withdrawn under the 'guise' of the joint employer threat are, or should be, the focus of the joint employment standard.

Rather, the 'test' of joint employer status should be determined based upon the amount of economic control a franchisor ***directly or indirectly*** exerts by use of the franchise agreement, operations manual, or other means, over its franchisees and which negatively impact and eviscerate a franchisee's equity ownership in the franchised business.

We have specifically been asked to comment on the added economic burden placed on franchisees when their franchisor backs away from services in order to avoid Joint Employer attribution. It should be no surprise from our firm contention that franchisors unduly focus their arguments on matters of control on their legitimate interests (and we contend duties) to control and protect *brand standards.* As part of the franchisor's playbook to insulate itself from *joint employer* classification is to withdraw franchisee support of human resource services, placing an added economic burden on its franchisees. The AAFD contends that a franchisor's withdrawal of such services is a canard, indeed an integral part of the strategy to misdirect attention from the real issues and is intended to secure franchisee opposition to the *joint employer* doctrine. Stated simply, in the franchising context, a franchisor's provision of human resources to its franchisees should play a negligible role in determining whether the *joint employer doctrine* should apply to a franchisor's undue control over its franchisee's equity.

We contend that the human resources services traditionally provided by a franchisor are appropriate for the protection of any brand's important standards of service, products and reputation that are properly a part of *brand standards.* That said, we recognize that the joint employer doctrine is built upon the traditional evaluation of master/servant and employer/employee characteristics that we believe distract from the real issues of control to subvert and diminish franchisee equity interests. We believe that much of the franchisor community is engaging in the art of misdirection in its arguments, tending to avert attention from the real economic basis for its opposition to the Browning-Ferris joint employer standard which is a bedrock of the traditional common law standard which incorporates both reserved and exercised control. The real concerns are the right to assert economic control, not the enforcement of legitimate brand standards, and include:

1. The claim that all the goodwill of the franchised business belongs to the franchisor, without any recognition of equity ownership by the franchisee whose capital and sweat equity are a major component of a franchise unit's existence and success.
2. Control over the ownership of the franchise location whereby the franchisor owns or controls the real estate which is leased or sublet to the franchisee impacting the franchisee's ownership of the business.
3. Abusive control or ownership of the assets of the business, such that a franchisee is little more than a sharecropper running the business for the benefit of the franchisor. Indeed, regarding McDonalds, it should be noted that McDonalds no longer refers to 'franchisees' in its agreements. In full claim of ownership, a McDonald's licensee is referred to legally as an 'operator' of a business that McDonald's fully owns.
4. *The exercise of abusive control over the suppliers and supply chain of the of the operation.* Far and beyond the enforcement of necessary system standards, many franchisors dictate sole sources of supply for the purpose of marking up the goods and services being purchased by franchisees, and regardless of the connection to the brand or brand standards. Franchisors now dictate where to buy insurance, process and control customer payments, and even business supplies, as well as dictating the source of brand related commodities–all of which could be potentially purchased at lower cost from competitive sources.
5. Control over the cost of labor by setting hours of operation that are not realistic for a particular franchise unit.

The Solution to the Joint Employer Dilemma

We join the industry in urging the NLRB to recognize the legitimacy of protecting brand standards, and to place its definition of *joint employment* on the real matter of 'who owns the franchised business equity.' The debate around joint employer is critical because it includes the broader debate beyond the impact of labor practices and also includes the question on who has control over the day-to-day business practices and who owns the equity in the business. We recognize that to refocus the inquiry of joint employer attribution in franchising may require some legislative revisions to the definition of 'control' to the control of equity (which is not a question in the typical master servant discussion). **However, we believe that our solution to provide a franchisor exemption is completely consistent with the premise of the NLRA, and within the authority of the NLRB.**

In establishing its test for Joint Employment, and advocating for the Browning-Ferris joint employer standard, we urge the NLRB to focus on minimum equity concerns:

1. The right to grow the business and manage its costs of operations, including the management and control of labor, goods, products and services purchased for operations.
2. The right to stay in business, to sell the business, or to transfer the business to heirs.
3. The right to manage the business finances, especially the right of the franchisor to pull funds from the franchisee's bank accounts, or whether the franchisee has the power over its own checkbook.
4. The very important, albeit sensitive, right to control the cost of supplies and suppliers. A significant promise of franchising is the power of volume purchasing, but the ability of a franchisor to dictate suppliers is fraught with the potential for abuse. A key inquiry to determine whether a franchisor has

crossed the line of control over the business is whether the franchisee's interests are respected and protected where a franchisor reserves significant control over the franchisee's source of supplies.

5. Similarly, the control over the marketing budget is critical to a successful franchise system. A franchisor may control most of the marketing fund, but a line is crossed when a franchisee retains no ability to influence and direct its marketing dollars.

Quite simply, the solution to the joint employer 'threat' for franchise systems is to recognize franchisee equity ownership to franchisees in a sufficient amount that the franchisee is deemed to be the 'owner' rather than a mere 'operator' of the franchised business.

The AAFD's Franchisee Bill of Rights Provides the Appropriate Tests for Excessive Control

We submit the Franchisee Bill of Rights (attached), as appropriate criteria to measure and test whether a franchisor has crossed the line of excessive control. The Franchisee Bill of Rights provide fourteen indicia of a franchise system that respects the equity interests of franchisees.

It is instructive to note that the Franchisee Bill of Rights actually recognize, even require, a franchisor to provide and support brand standards. Providing the expected 'control' over brand standards should not be the determinative criteria for joint employer. We urge the focus on relative equity: the determination of whether the agreement and relationship fairly recognize that the franchisee has a significant equity right in the franchised business.

Proposal to Create a Franchisor Exemption from Joint Employer attribution for Franchise Systems that Recognize an independent franchisee association and offer a collectively bargained franchise agreement

The comparison of franchisee associations to labor unions is inevitable and appropriate. Owners of franchised small businesses organize for reasons that are similar to the reasons that employees form unions: to collectively bargain the rights and benefits of agreements of their engagement to provide services to their franchisor or employer. At its core, the National Labor Relations Act that established the NLRB was enacted to establish the right of employee groups to organize, and the NLRA recognizes important exemptions for companies that recognize unions and have a collectively bargained employment agreement that is ratified by a majority of union members and employees.

AAFD urges that a franchisor that has recognized an independent owners association and has embraced a collectively bargained franchise agreement that has been ratified by a majority of franchisees should also be exempt from the consequences and penalties arising from being determined to be the 'joint employer' of a franchisee's employees. In this regard, it should be noted that the AAFD has established an accreditation for franchisors that meet these tests which we label as our "Fair Franchising Seal." To date, 19 brands have been accredited by the AAFD, all of which have franchise agreements that recognize franchisee rights and equity interests while reaffirming the franchisor's essential interest in protecting its brand standards. In essence, just as recognized in the NLRA, where the agreement defining rights and obligations has been collectively bargained, the reasons behind the purpose of the law have been met by the marketplace effectively doing its job!

Cooperation with the Federal Trade Commission

We also urge the NLRB to work closely with the Federal Trade Commission on defining aspects of the relationship that exceed normal control in a brand. The franchise industry has many unique attributes, and the FTC is the federal agency most engaged with oversight of the industry. Many items, such as uniforms and training, which are critical to the existence of the brand, are immaterial to the employment relationship, and should not create joint employer status.

Conclusion:

The AAFD appreciates the concerns of the NLRB, with respect to creating an appropriate 'test' for when a franchise system has crossed a line and become the 'joint employer' of a franchisee's *putative* employees. We believe that many franchisors exercise so much control over the franchised business that the franchisee retains limited if any equity ownership, or control over, in the franchised business. In such circumstances it is appropriate to deem the franchisor as the joint (and sometimes even the sole) employer of the franchised business employees. But we also believe that the establishment, support and enforcement of brand standards are not the appropriate target of any control test. Rather, the inquiry should be focused on the economic rights of business ownership that is promised and expected in a franchise relationship. Fair and balanced franchise agreements and relationships that respect the Franchisee Bill of Rights will provide and meet an appropriate test for determining joint employer status.

Respectfully submitted,

Robert L. Purvin, Jr.

Robert L. Purvin, Jr,
Chair, Board of Trustees

Richard Stroiney

Richard E. Stroiney
Chief Operating Officer and Executive Director

Keith R. Miller

Keith R. Miller
Director of Public Policy and Engagement

The Franchisee Bill of Rights

The Franchisees of America, representing the best of the American entrepreneurial spirit, hereby recognize and demand a basic minimum of commercial dignity, equity and fairness. In recognition thereof, the franchisees of America do proclaim this Franchisees' Bill of Rights. As the minimum requirements of a fair and equitable franchise system:

- The right to equity in the franchised business, including the right to meaningful market protection.
- The right to engage in a trade or business, including a post-termination right to compete.
- The right to the franchisor's loyalty, good faith and fair dealing, and due care in the performance of the franchisor's duties, and a fiduciary relationship where one has been promised or created by conduct.
- The right to trademark protection.
- The right to full disclosure from the franchisor, including the right to earnings data available to the franchisor which is relevant to the franchisee's decision to enter or remain in the franchise relationship.
- The right to initial and ongoing training and support.
- The right to competitive sourcing of inventory, product, service and supplies.
- The right to reasonable restraints upon the franchisor's ability to require changes within the franchise system.
- The right to marketing assistance.
- The right to associate with other franchisees.
- The right to representation and access to the franchisor.
- The right to local dispute resolution and protection under the laws and the courts of the franchisee's jurisdiction.
- A reasonable right to renew the franchise.
- The reciprocal right to terminate the franchise agreement for reasonable and just cause, and the right not to face termination, unless for cause.

THE AMERICAN ASSOCIATION OF FRANCHISEES AND DEALERS HOUSE OF DELEGATES ADOPTED AND PROMULGATED THE FRANCHISEE BILL OF RIGHTS ON JUNE 6, 1996, AND WORKS TO PROMOTE AWARENESS AND ACCEPTANCE OF THESE RIGHTS AMONG THE FRANCHISING COMMUNITY AND THE GENERAL PUBLIC.

[Additional submission by Ms. Leger Fernández follows:]

Economic
Policy
Institute

Child labor laws are under attack in states across the country

Amid increasing child labor violations, lawmakers must act to strengthen standards

Report • By Jennifer Sherer and Nina Mast • March 14, 2023

What this report finds: States across the country are attempting to weaken child labor protections, just as violations of these standards are rising. This report identifies bills weakening child labor standards in 10 states that have been introduced or passed in the past two years alone. It provides background on child labor standards and the coordinated push to weaken them, discusses the context in which these laws are being changed, and explains the connection between child labor and the United States' broken immigration system. It also provides data showing that declines in labor force participation among young adults reflect decisions to obtain more education in order to increase their long-term employability and earnings, and that nearly all youth currently seeking work report being able to find it.

Why it matters: Federal laws providing minimum protections for child labor were enacted nearly a century ago, leading many to assume that children working in grueling and/or dangerous jobs was a thing of the past. In fact, violations of child labor laws are on the rise, as are attempts by state lawmakers to weaken the standards that protect children in the workplace.

What lawmakers can do about it: This report provides policy recommendations for lawmakers at both the federal and state levels. At the federal level, Congress should heed calls to increase penalties for child labor violations and address chronic underfunding of agencies that enforce labor standards, eliminate occupational carve-outs that allow for weaker standards in agricultural employment, pass the Protecting the

SECTIONS

Right to Organize (PRO) Act, and implement immigration reforms that curb the exploitation of unauthorized immigrants and unaccompanied migrant youth. At the state level, lawmakers should eliminate subminimum wages for youth and raise the minimum wage, eliminate the two-tiered system that fails to protect children from hazardous or excessive work in agriculture, strengthen labor standards enforcement, and empower young people to build and strengthen unions.

At a time when serious child labor violations are on the rise in hazardous meatpacking and manufacturing jobs, several state legislatures are weakening—or threatening to weaken—child labor protections. The trend reflects a coordinated multi-industry push to expand employer access to low-wage labor and weaken state child labor laws in ways that contradict federal protections, in pursuit of longer-term industry-backed goals to rewrite federal child labor laws and other worker protections for the whole country. Children of families in poverty, and especially Black, brown, and immigrant youth, stand to suffer the most harm from such changes.

Summary of findings

- Both violations of child labor laws and proposals to roll back child labor protections are on the rise across the country. The number of minors employed in violation of child labor laws increased 37% in the last year and at least 10 states introduced or passed laws rolling back child labor protections in the past two years.
- Attempts to weaken state-level child labor standards are part of a coordinated campaign backed by industry groups intent on eventually diluting federal standards that cover the whole country.
- Youth labor force participation declines over the past 20 years reflect that a steadily growing share of young people are choosing to complete high school and obtain additional education in order to increase their long-term employability and earnings. Putting off work in order to obtain more skills and education is a positive trend—for both individuals and the economy—not one that should be slowed or reversed.
- State and federal lawmakers must act to protect and advance the rights of workers of all ages and backgrounds while protecting poor and/or immigrant youth from exploitation. Policy recommendations include raising the minimum wage (and eliminating subminimum wages for youth), ending the two-tiered system of standards for agricultural and nonagricultural work, enforcing wage and hour laws, passing key immigration reforms, and supporting workers' right to organize and form unions.

Across the country, both violations of child labor laws and proposals to roll back protections are on the rise

In February 2023 the U.S. Department of Labor (DOL) issued new findings on an ongoing investigation of Packers Sanitation Services, Inc. (PSSI) for illegally employing over 100 children between the ages of 13 and 17 in hazardous occupations at 13 meatpacking facilities owned by JBS, Cargill, Tyson, and others (DOL 2023). These children worked illegally on overnight shifts cleaning razor-sharp saws and other high-risk equipment on slaughterhouse kill floors. At least three of them suffered injuries, including burns from caustic cleaning chemicals. The Department of Homeland Security has announced a parallel investigation into whether these young workers, many of whom may be unaccompanied migrant children, were connected to illegal employment by traffickers who profited from their labor (Strickler and Ainsley 2023).

Multiple factories in Hyundai-Kia's supply chain in Alabama are also under DOL investigation for employing children as young as 14 (DOL 2022a). Many of these children are from Guatemalan migrant families. Like meatpacking plants across the Midwest, "many of the Alabama [auto] plants relied on staffing firms to recruit low-wage assembly line workers" (Schneyer, Rosenberg, and Cooke 2023).

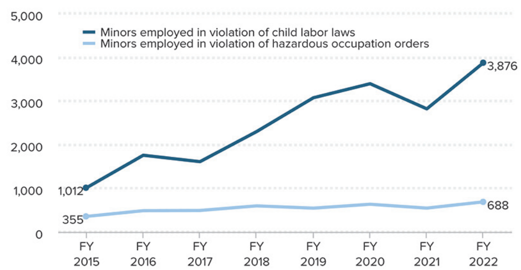
Violations uncovered in recent federal enforcement actions are not isolated mistakes of ill-informed individual employers. PSSI, one of the country's largest food sanitation services companies, is owned by the Blackstone Group, the world's largest private equity firm (PESP 2022). DOL investigators found PSSI's use of child labor to be "systemic" across eight states, "clearly [indicating] a corporate-wide failure." DOL (2023) reports that "the adults—who had recruited, hired, and supervised these children—tried to derail our efforts to investigate their employment practices."

Recent DOL cases and media reports make clear that unaccompanied migrant youth left in limbo by a broken U.S. immigration system have become particularly vulnerable to exploitation by employers and networks of labor brokers and staffing agencies who recruit workers on their behalf. Nearly 130,000 unaccompanied migrant children arrived at the U.S. border in 2022 alone, many fleeing poverty and violence (Dreier and Luce 2023). Many are eligible for asylum protection but have ended up among the 1.6 million people caught up in a record-high backlog of asylum claims awaiting processing or hearing dates, with claims taking years to adjudicate (TRAC 2022). In the meantime, many unaccompanied minors are sent to live with relatives or other sponsors. Both youth and adults awaiting asylum claims processing are ineligible for work permits for many months and cannot access social safety net programs (Workie, Hinkle, and Heredia 2022), leaving them impoverished and desperate to accept work of any kind to pay for necessities like food and rent, as well as repay debts to sponsors or help support family members in their countries of origin. Until federal agencies address the asylum backlog and the

Figure A

Child labor violations are on the rise

Minors employed in violation of child labor laws and hazardous occupation orders, fiscal years 2015–2022



Notes: Minors are workers less than 18 years old. Hazardous occupation orders ban minors from working in nonagricultural and agricultural occupations the Department of Labor defines as particularly hazardous for minors, or detrimental to their health or well-being.

Source: EPI analysis of Department of Labor (DOL) child labor violations data.

Economic Policy Institute

downstream issues it creates, young migrant children will continue to be a pool of potential workers whom employers may exploit, knowing they have no other viable options.

According to DOL, the number of minors employed in violation of child labor laws in fiscal year 2022 increased 37% over FY2021 and 283% over FY2015 (**Figure A**). The number of minors employed in violation of hazardous occupation orders increased 26% over FY2021 and 94% over FY2015 (DOL WHD 2022). In the six months prior to March 2023, DOL reported findings from 14 separate investigations into child labor violations. As of February 2023, it was investigating over 600 child labor cases (DOL OSEC 2023). These numbers represent just a tiny fraction of violations, most of which go unreported and uninvestigated.

The Biden administration recently announced plans to target additional enforcement toward companies illegally employing migrant youth in hazardous jobs (Rainey 2023). Proposed steps include the formation of a new interagency task force on the exploitation of child labor made up of representatives from DOL and the Department of Health and Human Services, the launching of a new DOL enforcement initiative, and an appeal to Congress to increase employer penalties for child labor law violations.

Industry groups are pushing state legislatures to weaken child labor protections

While federal agencies are ramping up enforcement of child labor protections in response to increasing violations (DOL 2022b), industry groups are working to roll back child labor protections via state legislation.

Already in 2023, eight bills to weaken child labor protections have been introduced in six Midwestern states (Iowa, Minnesota, Missouri, Nebraska, Ohio, and South Dakota) and in Arkansas, where a bill repealing restrictions on work for 14- and 15-year-olds has now been signed into law. One bill introduced in Minnesota would allow 16- and 17-year-olds to work on construction sites.[1] Ten states have introduced, considered, or passed legislation rolling back protections for young workers in just the past two years (**Table 1**).

Iowa's proposed bill has generated national headlines for being particularly extreme (Sainato 2023). As introduced, the bill proposed lifting restrictions on hazardous work to allow children as young as 14 to work in meat coolers and industrial laundries, teens as young as 15 to work on assembly lines, and 16- and 17-year-olds to serve alcohol, among a long list of changes. The bill seeks to create special permits that would allow 14.5-year-olds to drive themselves up to 50 miles to and from work between 5:00 a.m. and 10:00 p.m. and state authorities to waive restrictions to allow teenagers 14–17 to perform various forms of hazardous work if approved as part of a "work-based learning program."[2] Other deeply disturbing proposals in the bill include removing rules that bar parents from making false statements (such as misreporting a child's age) in order to procure employment that violates child labor law; eliminating the labor commissioner's authority to require work permits for children in some occupations; granting new discretion for the state to waive, reduce, or delay civil penalties if an employer violates child labor laws; and providing employer immunity from legal claims arising from the injury, illness, or death of a child while engaged in a "work-based learning program." Last year, Iowa enacted a law that allows 16- and 17-year-olds to care for school-age children in child care centers without supervision.[3]

In Arkansas, Governor Sarah Huckabee Sanders has signed into law a 2023 bill repealing restrictions on work for 14- and 15-year-olds. Under the new law, children under 16 will no longer need to provide an employment certificate from the Division of Labor that verifies proof of their age and parental consent to work.[4] A spokesperson for Sanders called parental permission requirements for children to work an "arbitrary burden" (Picchi 2023). Removing requirements to provide proof of age or permission to work can, however, easily facilitate the exploitation of migrant youth while giving cover to adults who connect them with illegal employment.

And, in Ohio, Republican lawmakers in the Senate passed a bill proposing that 14- and

Table 1

In the past two years, at least 10 states have introduced or passed laws rolling back child labor protections

State child labor legislation activity, 2021–2023

Bill	Bill details	Status	Year	Industry supporters
Arkansas				
HB 1410	Eliminates age verification and parent/guardian permission requirements	Enacted	2023	
Iowa				
SF 167	Lifts restrictions on hazardous work; lowers age for alcohol service; extends work hours; grants employer immunity from civil liability for workplace injuries, illness, death	Introduced	2023	Americans for Prosperity; Home Builders Association of Iowa; Iowa National Federation of Independent Business (NFIB); Iowa Farm Equipment Dealers Association; Iowa Association of Business and Industry (ABI); Iowa Hotel and Lodging Association; Iowa Restaurant Association
HF 2198	Lowers minimum age of child care workers; reduces staff-to-child ratios	Enacted	2022	Dubuque Area Chamber of Commerce
Minnesota				
SF 375	Lifts restrictions on hazardous work	Introduced	2023	BATC–Housing First Minnesota lobbied to allow 16- and 17-year-olds to work in construction in 2019
SF 1102	Extends work hours	Introduced	2023	
Missouri				
HB 960	Extends work hours	Introduced; postponed	2023	
Nebraska				
LB 15	Subminimum wage for youth	Introduced	2023	Nebraska Chamber of Commerce and Industry; Nebraska Grocery Industry Association
New Hampshire				
SB 345	Lowers age to bus tables where alcohol is served; extends work hours	Enacted	2022	New Hampshire Lodging and Restaurant Association; New Hampshire Liquor Commission
New Jersey				
A4222	Extends work hours; increases time before break	Enacted	2022	New Jersey Chamber of Commerce; New Jersey Business and Industry Association

Table 1 (cont.)

Bill	Bill details	Status	Year	Industry supporters
Ohio				
SB 30	Extends work hours	Passed in the Senate	2023	Americans for Prosperity; Pickerington Area Chamber of Commerce; Ohio NFIB; Ohio Restaurant Association
South Dakota				
HB 1180	Extends work hours	Introduced; withdrawn	2023	
Wisconsin				
SB 332	Extends work hours	Passed in the House and Senate; vetoed by the governor	2021–2022	Wisconsin Grocers Association; Wisconsin Independent Businesses, Inc.; Wisconsin NFIB; Association of Wisconsin Tourism Attractions; Wisconsin Hotel and Lodging Association

Source: EPI analysis of state legislative activity and news related to child labor legislation.

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15-year-olds be able to work until 9:00 p.m. during the school year.[5] The Ohio Restaurant Association, the National Federation of Independent Business, and the Pickerington Area Chamber of Commerce testified in support of the bill (Buchanan 2023). The bill was first introduced in 2021, when it passed the Ohio Senate but was not put to a vote in the House.[6]

In the past two years, several states have proposed or enacted laws extending the hours 14- and 15-year-olds can work. Both New Jersey and New Hampshire passed such laws in 2022. The New Hampshire law lowered the age for minors to bus tables where alcohol is served from 15 to 14, increased the number of hours per week 16- and 17-year-olds can work, and repealed a provision that limited the number of night shifts these teens can work per week.[7] The New Jersey law increased the number of hours teens can work during the summer months to 40 a week for 14- and 15-year-olds and 50 (more than full time) for 16- and 17-year-olds. It also increased the number of hours minors can work before a break from five to six.[8] In Wisconsin, a 2021 bill to extend work hours for minors was passed by both chambers of the legislature before being vetoed by Governor Evers in 2022.[9]

Across the country, the primary proponents of these laws are business groups and their state affiliates, particularly the National Federation of Independent Business, the Chamber of Commerce, and the National Restaurant Association (Lazare 2022). Hotel, lodging, and tourism associations, grocery industry associations, home builders, and Americans for Prosperity—a billionaire-funded right-wing dark money group—have also supported bills in various states (see **Table 2**).

In Nebraska, lawmakers have introduced a bill to pay two groups of young workers below the state's current minimum wage.[10] In 2022, Nebraska voters approved a ballot measure to increase the minimum wage to $15 by 2026, starting with an increase from $9 to $10.50 in January 2023 (Mast, Woods, and Sherer 2022). In direct opposition to this change, the bill proposes that 14- to 17-year-olds be paid only $9, with a gradual increase to $10 by 2026. The bill also proposes paying "training wages" to 18- and 19-year-olds of $9.25 an hour, increasing to $10 by 2026 and then remaining at 75% of the minimum wage thereafter. In defense of his proposal to pay young workers a subminimum wage, State Senator Tom Briese (R-Albion) stated that "we shouldn't be making it harder for employers to hire young folks" (Stoddard 2023).

Enforcing labor standards that mandate fair and efficient wages do not "make it hard to hire young folks" or anyone else. A minimum wage that was too high and hence constraining job growth would suppress employer demand for workers while boosting their supply. The growing gap between reduced demand and increased supply would show up as an increase in unemployment rates for the affected group. Yet the unemployment rate for 16- to 24-year-olds currently sits at a rate (8.0%) that matches pre-COVID lows of 2019, when the unemployment rate for young workers was lower than it had been since the 1950s (BLS CPS 2023). Employers seem uncomfortable with the reality that they must pay higher wages to attract workers in a tight labor market—yet this is exactly the way markets are supposed to work.

Weakened state child labor protections contradict federal standards—and they're intended to

Newly weakened state laws fly in the face of decades of research documenting that excessive work hours can jeopardize teens' health and development (Monahan, Lee, and Steinberg 2011) and that youth are developmentally and biologically more vulnerable to workplace injuries (NIOSH 2022) and long-term harms from chemical exposures and other workplace hazards (Graczyk and Riediker 2019) than older adults. They also jeopardize the futures of young people, as young adults who drop out of school to work have the lowest earnings and highest unemployment rates of all workers (BLS 2022a).

Many proposed changes to state child labor laws also directly contradict federal standards designed to protect youth from well-documented dangers. The Fair Labor Standards Act (FLSA) sets a floor on wages, hours, and child labor standards; state laws can provide more protection than federal statutes mandate, but they cannot provide less. Where state standards are weaker than those provided in FLSA, federal law preempts the state standard.

Federal law includes a youth subminimum "training" wage for teens at the start of jobs and a two-tiered system of far weaker protections for youth working in agriculture. These substandard wages and protections in agriculture especially disadvantage low-income and migrant youth who are compelled to work by economic desperation (**Table 2**).

Generally, workers are covered by the FLSA if their work engages them in interstate commerce or if they work for a private business with annual sales of at least $500,000 or a hospital, health care facility, school, or public entity (DOL WHD 2009). Weaker state standards on work hours, wages, or protections from hazardous work thus legally apply

Table 2

Federal law sets minimum standards for child labor in agricultural and nonagricultural employment

Law	Nonagricultural employment	Agricultural employment
Minimum age for "nonhazardous" employment	14 with exceptions for delivering newspapers; performing in radio, television, movie, or theatrical productions; and performing nonhazardous work for parents in a family business	10 with parental consent on farms not covered by the minimum wage requirements of the Fair Labor Standards Act 12 with parental consent 14 with no restrictions on nonhazardous work
Minimum age for hazardous employment	18	16
Maximum hours of employment for youth under 16	No work during school hours When school is in session: max 3 hours/day on a school day, max 8 hours/day on a nonschool day, max 18 hours/week	Federal law does not limit the number of hours or times of day, other than outside of school hours, that youth can work in agriculture
Minimum hourly wage and overtime	Adult minimum: $7.25 per hour "Youth" minimum: $4.25 per hour for employees under 20 years of age during their first 90 consecutive calendar days of employment Overtime for all workers: 1.5 times regular hourly wage after 40 hours/week	Many agricultural employers are exempt from federal minimum wage requirements Agricultural employers are exempt from federal overtime requirements

Source: EPI summary of U.S. Department of Labor Child Labor Bulletins No. 101 and No. 102.

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only to the small subset of employment situations not covered by the FLSA.

Sixteen states already have weaker standards on youth work hours than those in the FLSA. They permit youth working for non-FLSA-covered employers to start work earlier, end work later, and work additional hours per day or week (DOL WHD 2023). Many state legislators seeking to remove prohibitions on hazardous forms of work or allow youth to work extended hours have been clear that they understand that these weaker standards would conflict with FLSA rules (remaining applicable only in non-FLSA-covered employment contexts)—and that such conflict is part of the point. Industry lobbyists backing state child labor law changes appear to view state-by-state erosion of protections as a way to build pressure for eventual relaxation or elimination of federal wage and hour standards for the whole country, legalizing forms of child labor long considered to be hazardous or exploitative and expanding the pool of low-wage labor available to employers in industries ranging from restaurants and retail to construction, logistics, and manufacturing.

Lawmakers in Ohio, for example, accompanied their 2022 proposal to extend hours for youth work covered under state law with concurrent resolutions calling on Congress to "change [the] Fair Labor Standards Act re: minors," bringing federal standards in line with the looser rules proposed for Ohio.[11] Last year, South Dakota's lone member of Congress, Dusty Johnson, introduced a bill to lift limits on work hours for teens 14 and 15.[12] The bill would extend work hours to 9:00 p.m. and increase the number of workable hours to 24 per school week for young workers nationwide. The South Dakota Retailers Association, the National Restaurant Association, and the National Fireworks Association supported the bill (Johnson 2022).

Creating additional discrepancies between state and federal labor standards (which already involve a complex patchwork of rules and coverage guidelines within and across states) also makes it more difficult for workers to understand their rights and for employers to understand their legal obligations, increasing the likelihood that some employers will inadvertently violate federal prohibitions against employment of minors by following state guidelines that are inconsistent with FLSA requirements.

Declines in youth labor force participation reflect the growing importance of education for career success

Industry lobbyists backing changes to child labor law have recently cited the 56% labor force participation rate among 16- to 24-year-olds as "awful low" (Bogage 2023). Let's pretend for a moment that these lobbyists are truly concerned with the career trajectories of young people, and not merely the inconvenience that higher-wage jobs pose for the interests they represent. Referring to a 56% labor force participation rate among young people as "low" ignores macroeconomic trends, demographic changes in the workforce, and rational choices made by youth and their families about when and how much teens and young adults can or should work as opposed to attending school or engaging in other activities that support learning and development. It also begs the question: Do we really want most children and young adults working in the labor market most of the time, or do we want them to make long-run investments in education and training?

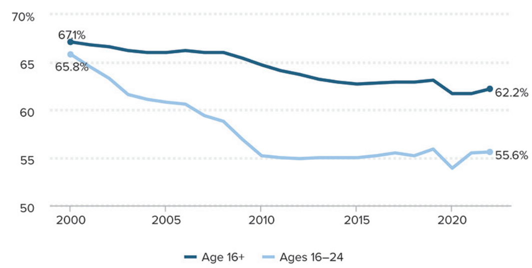
The labor force participation rate among people 16–24 has largely recovered to 2019 rates, following the COVID-19 pandemic recession, outpacing the recovery of overall labor force participation (**Figure B**). Declines over the last two decades reflect the fact that a larger share of young adults are in school today.

Between 2001 and 2021, the share of 16- to 24-year-olds not working has increased 16.5 percentage points, while the share of this group who reported not working because they

Figure B

Labor force participation among young adults has recovered to pre-pandemic levels

Labor force participation rate among adults age 16+ and among young adults ages 16–24, 2000–2022



Notes: Labor force participants are employed workers and unemployed workers who are actively seeking work. The labor force participation rate for a given age group is the number of labor force participants divided by the total number of people in that age group.

Source: EPI analysis of Current Population Survey microdata.

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were in school rose by nearly 15 percentage points (**Figure C**). Among 16- to 19-year-olds, there was a 22.4-percentage-point increase in the share who were not working and a 21-percentage-point increase in the share who reported going to school as the reason they were not working.

The share of young people who are not working because they cannot find work has remained low since 2001 (except during the Great Recession). Between 2001 and 2021, it increased by less than 1 percentage point. The decrease in labor force participation among both 16- to 19-year-olds and 16- to 24-year-olds is thus almost entirely explained by the larger share of young people prioritizing education and training over work. Given these findings—and the long-term increases in earnings associated with higher educational attainment (BLS 2022a)—higher labor force participation rates among youth seems undesirable, for both the individuals and for the economy as a whole.

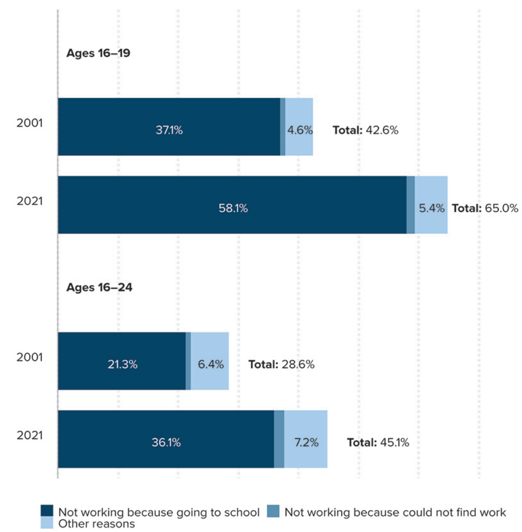
Policy recommendations

Today's young workers, both immigrant and native-born, are asking more of the workplace and economy than previous generations, not less. They want living wages (Kaplan 2022), equitable and diverse workplaces (Miller 2021), equal employment opportunities

Figure C

Most young people who are not in the labor force are in school

Share of 16- to 19-year-olds and 16- to 24-year-olds not working, by selected reasons, 2001 and 2021



Note: "Not working for other reasons" include illness, disability, taking care of family member, retired, and other.

Source: IPUMS online data analysis system (SDA) analysis of Current Population Survey Annual Social and Economic Supplement, "Reason not working last year by survey year."

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regardless of immigration status (Lopez 2023), and a collective voice at the table—and many are eager to organize and advocate to achieve these ends (Glass 2022). If employers hope to recruit and retain young workers, they should recognize and respond to these realities rather than lobbying to suppress wages and roll back existing minimal labor standards. Policymakers should ensure that young workers' reasonable expectations can become realities by enacting policies that begin to address the vastly unequal power of workers and employers.

Action is needed at both the federal and state levels. Recommendations for high-priority improvements at the federal level include the following:

- **Fully fund labor standards and their enforcement, and enhance penalties for violating the rules.** Congress should heed recent calls to increase penalties for child labor violations (Baldwin 2023) and address chronic underfunding of DOL's Wage and Hour Division, where investigators are responsible for more than twice the number of workers they were 40 years ago (Costa 2022).
- **Eliminate the disparate treatment of agricultural workers under federal law.** Congress should eliminate occupational carve-outs in labor and employment laws (Dixon 2021) that have long enabled widespread exploitation of immigrant youth in agricultural employment (Wurth 2019).
- **Support the PRO Act.** Lawmakers should strengthen all workers' rights to organize through reforms such as the recently reintroduced PRO Act, which would reform our nation's labor law so that private-sector employers can't perpetually stall union elections and contract negotiations and coerce and intimidate workers seeking to unionize.
- **Fix the United States' broken immigration system, in order to protect migrant children.** Congress should pass immigration reform that includes a path to citizenship for unauthorized immigrants, addresses the asylum-processing backlog, and provides adequate oversight and protection of unaccompanied migrant children after they are released to sponsors.

In the absence of federal action on these major reforms, there is much state legislatures can do to better protect young workers. Instead of competing in a race to the bottom on child labor standards, states can eliminate significant gaps and exclusions in existing child labor laws, strengthen protections beyond the minimal and limited standards mandated by federal law, and improve job quality for workers of all ages. Actions state lawmakers should prioritize include the following:

- **Eliminate subminimum wages for youth.** Young workers perform the same jobs as older colleagues, often at greater risk to their health and well-being. There is no justification for paying youth subminimum wages, which studies show can exacerbate child and family poverty (Maroto and Pettinicchio 2022).
- **Raise the minimum wage.** Nearly half of young workers are paid the federal minimum wage (or less) (BLS 2022b), and a larger share of young workers earn less than $15 than any other age group—nearly 7 million young workers. Raising the minimum wage would raise the floor for these and the nearly 14 million other workers nationwide who are paid less than $15 an hour (Zipperer 2022).
- **Eliminate the two-tiered system that fails to protect children from hazardous and/or excessive work in agricultural jobs.** Federal and most state laws allow lower standards for agriculture—allowing children as young as 10 to take jobs on some farms and placing no limits on work hours, for example (DOL 2016). These long-

standing exemptions for agricultural work are outdated and out of compliance with international standards governing child labor (HRW 2022). Until Congress ends this system, states can and must step in to close these loopholes.

- **Strengthen the enforcement of wage payment laws.** Young workers are particularly vulnerable to wage theft. They account for nearly one-third of reported minimum wage violations (Cooper and Kroeger 2017)—and actual rates of wage theft are much higher, as most wage theft goes unreported. Strengthening legal protections against wage theft, bolstering enforcement capacity, and increasing penalties would help deter employers from violating the law (Mangundayao et al. 2021).
- **Empower young workers to build (and rebuild) unions.** Historically and today, young workers and immigrant workers are often at the forefront of efforts to organize unions to improve their jobs and reduce inequalities in the U.S. economy, but their rights are too often limited by gaps and exclusions in labor law (Glass 2022; Moreta and Figueroa 2018). States have critical roles to play in guaranteeing full union rights for both youth and adults working in agricultural occupations and in domestic work, where large numbers of young immigrant women are employed (Banerjee et al. 2022). Unless states act, these occupations are otherwise excluded from federal labor law (Mikolajczyk 2022; Lieberman et al. 2021).

Notes

1. S.F. 375, 93rd Sess. (Minn. 2023).

2. S.F. 167, 90th Gen. Assemb. (Iowa 2023).

3. H.F. 2198, 89th Gen. Assemb. (Iowa 2022).

4. H.B. 1410, 94th Gen. Assemb. (Ark. 2023).

5. S.B. 30, 135th Gen. Assemb. (Ohio 2023).

6. S.B. 251, 134th Gen. Assemb. (Ohio 2021).

7. S.B. 345, 2022 Leg. (N.H. 2022).

8. A4222, Leg., 2022–2023 Sess. (N.J. 2022).

9. S.B. 332, 2021–2022 Leg. (Wis. 2021).

10. L.B. 15, 108th Leg. (Neb. 2023).

11. SCR 14, 134th Gen. Assemb. (Ohio 2022).

12. Teenagers Earning Everyday Necessary Skills Act, H.R. 8826, 117th Cong. (2022).

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[Questions submitted for the record and the responses by follow:]

COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

April 14, 2023

Chris Spear
President and CEO
American Trucking Associations
80 M Street SE, Suite 800
Washington, DC 20003

Dear Mr. Spear:

Thank you, again, for testifying at the March 28 Committee on Education and the Workforce hearing on "Unleashing America's Opportunities for Hiring and Employment."

Enclosed is an additional question submitted by a Committee member following the hearing. Please provide a written response no later than May 5, 2023, for inclusion in the hearing record. Responses should be sent to Michael Davis of the Committee staff, and he can be contacted at (202) 225-7101.

We appreciate your contribution to the work of the Committee.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosed

Question for the Record for Chris Spear

Full Committee Hearing:
"Unleashing America's Opportunities for Hiring and Employment"
March 28, 2023
10:15 a.m.

Representative Glenn "GT" Thompson (R-PA)

1. Mr. Spear, as Co-chair of the bipartisan House Career and Technical Education (CTE) Caucus, I am a strong supporter of CTE programs that allow learners of all ages to acquire career-oriented skills. In your testimony, you discuss how the vast majority of truck drivers obtain their credentials from the for-profit sector. **As Congress considers allowing higher education resources to go towards short-term, career-focused programs, can you explain how categorically carving out for-profit programs would harm workers in your industry?**

Question for the Record for Chris Spear

Full Committee Hearing: "Unleashing America's Opportunities for Hiring and Employment"
March 28, 2023 at 10:15 a.m.

Representative Glenn "GT" Thompson (R-PA)

1. Mr. Spear, as Co-Chair of the bipartisan House Career and Technical Education (CTE) Caucus, I am a strong supporter of CTE programs that allow learners of all ages to acquire career-oriented skills. In your testimony, you discuss how the vast majority of truck drivers obtain their credentials from the for-profit sector. **As Congress considers allowing higher education resources to go toward short-term, career-focused programs, can you explain how categorically carving out for-profit programs would harm workers in your industry?**

Thank you for the question. You asked about the effect on the trucking industry of carving out for-profit programs from eligibility for higher education resources for short-term, career-focused programs. In short, doing so would contribute to the current driver shortage. Our industry has a shortage of 78,000 drivers. If the current trend continues, that shortage could increase to 160,000 by 2031. Over the next decade, the industry must identify, recruit, educate, and put nearly 1.2 million new drivers on the road to replace those retiring or leaving, as well as those required to accommodate industry growth.

Given this, we need an all-the-above approach to workforce development. Both non-profit and for-profit education providers are needed to educate drivers for our industry. We can't eliminate one legitimate education path based solely on the tax status of the education provider. If that provider is doing a good job, its tax status should be irrelevant regarding eligibility for higher education resources.

Categorically excluding for-profit institutions from eligibility for Career and Technical Education programs would mean Congress has not done its part to remove barriers to education—education that leads to good jobs that pay family-sustaining wages.

As I noted in my written testimony, several of our members have established and funded their own truck driver schools (some outsource their programs but subsidize them for recruited drivers). There is no reason a truck driver educated at a for-profit motor carrier's truck driver school is any less knowledgeable or prepared than a truck driver educated at a non-profit or community college program or an unaffiliated school. Indeed, given the driver shortage, trucking companies are incentivized to educate new drivers quickly and ensure they receive a superior education.

The vast majority of drivers in our industry obtain their credentials from the for-profit sector. By denying these vital workforce partners access to the workforce system, Congress is inherently discriminating against those workers most in need of financial support for a career in trucking.

To reiterate, we need an all-of-the-above approach to workforce development. Congress should not discriminate against a particular type of education program based solely on its tax status. Our economy needs a stable pipeline of new drivers. Both non-profit and for-profit education providers have a role in filling this pipeline.

COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

April 14, 2023

Jerry Akers, President
Sharpness, Inc.
2031 Linn Benton Road
Palo, Iowa 52324

Dear Mr. Akers:

Thank you, again, for testifying at the March 28 Committee on Education and the Workforce hearing on "Unleashing America's Opportunities for Hiring and Employment."

Enclosed is an additional question submitted by a Committee member following the hearing. Please provide a written response no later than May 5, 2023, for inclusion in the hearing record. Responses should be sent to Michael Davis of the Committee staff, and he can be contacted at (202) 225-7101.

We appreciate your contribution to the work of the Committee.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosed

Representative Lisa McClain (R-MI)

1. **Notice of Proposed Rulemaking: Employee or Independent Contractor Classification Under the Fair Labor Standards Act:** This rule rescinds the independent contractor rule adopted in 2021 by the Trump Administration. It replaces it with an overly restrictive six-factor economic reality test to determine whether a worker is "economically dependent" on a company. A bicameral letter was sent by dozens of congressional members opposing the proposed rule.[1] California passed AB5 in 2019, which implemented a three-part test for independent contractors.[2] California then had to pass AB 2257—the "fix it" bill—which created more than 75 exceptions to the law that fundamentally didn't work in practice. A study by Upwork estimates that 59 million Americans performed freelance work in 2021 and contributed $1.3 trillion to the U.S. economy.[3]

   Mr. Akers: If this rule were finalized, how many of these Americans will lose access to their current employment and either (1) have to move to a less flexible arrangement or (2) lose their job altogether?

[1] https://edworkforce.house.gov/uploadedfiles/bicameral_dol_ic_nprm_comments.pdf
[2] https://thehill.com/opinion/finance/3677431-california-has-a-terrible-labor-law-the-biden-administration-wants-to-take-it-national/
[3] Adam Ozimek, Freelance Forward Economist Report, UPWORK, https://investors.upwork.com/news-releases/news-release-details/upwork-study-finds-59-million-americans-freelancing-amid#:~:text=In%20a%20turbulent%20job%20market,million%20more%20than%20in%202020

Question for the Record for Jerry Akers

Full Committee Hearing:
"Unleashing America's Opportunities for Hiring and Employment"
March 28, 2023
10:00 a.m.

Representative Lisa McClain (R-MI)

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   Mr. Akers: If this rule were finalized, how many of these Americans will lose access to their current employment and either (1) have to move to a less flexible arrangement or (2) lose their job altogether?

   The standard for determining employee or independent contractor classification under the Fair Labor Standards Act is of direct and immediate concern to the franchise community, as an overly broad standard threatens to fundamentally upend the successful franchise business model, particularly in my case of owner-operated franchises. California's AB5 created great uncertainty within the franchise community. Corporate franchise brands are already reacting to the increased risk of AB5 by not franchising in California and taking away opportunities to reduce the risk. Franchisors, concerned about the ambiguity in how AB5 may be applied to franchisors to determine whether they are joint employers with their franchisees, scaled back support services directly provided to franchisees that may be used to classify them as joint employers and instead turned to third party service providers to perform the support services, often at the franchisees' costs. In the current labor market—where workers are very hard to come by and keep—the costs to franchisees of accessing the services of third parties for services (e.g., example employee handbooks, training programs, feedback regarding labor optimization) during months when turnover is high can be substantial. The impact to franchisees of AB5 was not restricted to California as franchisors modified support provided to franchisees uniformly across the franchise systems in all states where they operate. Of significant concern to franchisees is the threat to the equity that small business owners like me have built over years of operating franchise businesses, as the adverse consequences of the proposed changes to the joint employer rule will certainly diminish the value of our businesses and reduce our ability to monetize our investments. We do not need independent contractor tests that rob franchise owners of their investments by wrongly categorizing every franchisee as an employee of their franchise brand.

COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

April 14, 2023

Stephen Moore
Distinguished Fellow in Economics
The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002

Dear Mr. Moore:

Thank you, again, for testifying at the March 28 Committee on Education and the Workforce hearing on "Unleashing America's Opportunities for Hiring and Employment."

Enclosed are additional questions submitted by a Committee member following the hearing. Please provide a written response no later than May 5, 2023, for inclusion in the hearing record. Responses should be sent to Michael Davis of the Committee staff, and he can be contacted at (202) 225-7101.

We appreciate your contribution to the work of the Committee.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

Enclosed

Questions for the Record for Stephen Moore

Full Committee Hearing:
"Unleashing America's Opportunities for Hiring and Employment"
March 28, 2023
10:15 a.m.

Representative Glenn "GT" Thompson (R-PA)

1. Mr. Moore, according to the National Association of Manufacturers, more than three-quarters of manufacturers thought that attracting and retaining a quality workforce was their primary business challenge. What do you recommend should be done to help these businesses find, attract, and retain a talented workforce?

Representative Lisa McClain (R-MI)

There are still more than 10.8 million open jobs since COVID. More than 2.1 million American workers missing since just before. Most work requirements in major welfare programs are still waived or non-existent. There are more open jobs than there are unemployed people looking for work. Most able-bodied adults on major welfare programs do not work at all. There are 291,000 open jobs in my state of Michigan alone. Real wages for workers are down year-over-year due to high Biden-caused inflation.

1. Mr. Moore: Even if only 10 million Americans go back to work as a result of a work requirement in major welfare programs, it would boost GDP by nearly $400 billion. Wouldn't this be a simple tool to help revitalize the American economy?

2. Mr. Moore: Based on previous CBO estimates and independent analyses, a universal work requirement in major welfare programs could save as much as $300 billion while increasing revenues by another $221 billion. Wouldn't this requirement—which would help get millions of Americans off the sidelines and back to work—help resolve America's worker shortage?

Questions for the Record for Stephen Moore
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Representative Glenn "GT" Thompson (R-PA)

1. Mr. Moore, according to the National Association of Manufacturers, more than three-quarters of manufacturers thought that attracting and retaining a quality workforce was their primary business challenge. What do you recommend should be done to help these businesses find, attract, and retain a talented workforce?

We need to de-emphasize colleges and universities which receive hundreds of billions of dollars of federal subsidies and are graduating kids without needed skills for 21st-century jobs. We should be encouraging and rewarding apprenticeships and practical training by employers.

Work requirements for welfare will also help get workers off the sidelines into manufacturing jobs.

We also need immigration policies with work permits for skilled manufacturing workers.

Questions for the Record for Stephen Moore
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2) Representative Lisa McClain (R-MI)

There are still more than 10.8 million open jobs since COVID. More than 2.1 million American workers are missing since just before. Most work requirements in major welfare programs are still waived or non-existent. There are more open jobs than there are unemployed people looking for work. Most able-bodied adults on major welfare programs do not work at all. There are 291,000 open jobs in my state of Michigan alone. Real wages for workers are down year-over-year due to high Biden-caused inflation.

Rep. McClain is entirely right. The work requirements started to be lifted during the Obama years and then during Covid were entirely suspended.

We should consider adjusting UI benefits downward with stricter time limits when the unemployment rate is very low as is the case today.

Mr. Moore: Even if only 10 million Americans go back to work as a result of a work requirement in major welfare programs, it would boost GDP by nearly $400 billion. Wouldn't this be a simple tool to help revitalize the American economy?

Welfare reform saved taxpayers $50 billion in the 1990s, and that would be twice as high today. The estimates for higher GDP are in the hundreds of billions of dollars by moving people off of welfare into work. Their earnings will also go up over time as they gain work experience, so the GDP impact rises every year.

Mr. Moore: Based on previous CBO estimates and independent analyses, a universal work requirement in major welfare programs could save as much as $300 billion while increasing revenues by another $221 billion. Wouldn't this requirement help get millions of Americans off the sidelines and reduce the deficit?

Here is the historical experience from the 1996 bipartisan welfare reform bill:

Few laws in the last half century have had such a stunning success. Here is a quick summary of the impact, as reported by Brookings Institution welfare expert Ron Haskins:

1. Caseloads declined by 60%, and number of welfare recipients fell to their lowest level since 1969.
2. Between 60 and 70% of those leaving welfare got a job.
3. The child poverty rate FELL every year between 1994 and 2000 because parents were working.
4. The federal government saved more than $50 billion (almost $100 billion in today's dollars).

[Whereupon, at 1:38 p.m., the hearing was adjourned.]

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