



## HOUSE EDUCATION & LABOR COMMITTEE

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

JUNE 14, 2022 – 10:15 AM

#### OVERVIEW

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On Tuesday, June 14, the House Education and Labor Committee held a hearing titled, “Examining the Policies and Priorities of the U.S. Department of Labor.” During the hearing, members and Secretary Walsh discussed: workforce development, including apprenticeships; workers’ rights and protections; collective bargaining and union organizing; the Job Corps Scholar Program; inflation; the Wage and Hour Division (WHD); fiduciaries; employer compliance assistance; worker classification; Thrift Savings Program; the Bureau of International Labor Affairs (ILAB) and United States-Mexico-Canada Agreement (USMCA); immigration reform; and comprehensive paid family leave.

#### OPENING STATEMENTS

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- [Chairman Bobby Scott](#) (D-VA)

#### WITNESS PANEL

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- [The Honorable Martin J. Walsh](#) – Secretary, U.S. Department of Labor

#### QUESTION AND ANSWER SUMMARY

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##### **Workforce Development**

Rep. Glenn Thompson (R-PA) inquired what steps the Department of Labor (DOL) is taking to ensure individuals have the skills necessary to fill job positions and get people back to work. Mr. Walsh indicated the DOL is eager to partner with companies to look for individuals that meet company needs and ensure effective investments. He highlighted an event next week at DOL with 475 different businesses, legislatures, and organizations to discuss creating better pathways to jobs.

Rep. Susan Wild (D-PA) noted DOL’s budget proposal of \$3 billion for state Workforce Innovation and Opportunity Act (WIOA) employment and training programs. She asked if DOL is concerned about whether the U.S. has the skilled labor needed to rebuild the nation’s infrastructure. Mr. Walsh expressed support for ensuring workforce growth and investments in areas such as clean drinking water, broadband access, and roads and bridges.

Rep. Jahana Hayes (D-CT) inquired about DOL's vision for the Skills and Experiences for the Careers of Tomorrow (SECTOR) Program and how this investment prepares Americans for a competitive workforce. Mr. Walsh reiterated the need to create pathways for middle-class Americans to access better paying jobs. He also claimed that despite a college education, some individuals miss opportunities to advance in different industries.

### **Apprenticeships**

Rep. Joe Courtney (D-CT) asked how DOL will expand registered apprenticeships to help underrepresented groups. Mr. Walsh expressed support for partnering with businesses to create a pathway to well-paying jobs, increase workforce development funding, and reauthorize WIOA. He also stated it is critical to address the unemployment rate of 6.2 percent in the African American community.

Rep. Thompson questioned why the Administration is not updating apprenticeship programs. Mr. Walsh explained DOL is looking to expand apprenticeship programs to include more industries. He noted DOL has an advisory board made up of community colleges, workforce development boards, businesses, and labor organizations intending to strengthen the program.

Rep. Suzanne Bonamici (D-OR) asked how investments in registered apprenticeships, as outlined in the budget request, increase the affordability of pre-apprenticeships and expand diversity. Mr. Walsh explained pre-apprenticeships programs can provide people with knowledge of various industries. He also noted some programs created a stipend where workers can get paid while in the program and are provided with the tools needed to learn the trade. He argued this model is helpful for success in career development.

Rep. Alma Adams (D-NC) inquired about the partnerships DOL has with Historically Black Colleges and Universities (HBCUs) in recruiting for apprenticeship programs. Mr. Walsh claimed that partnerships are key to the success of registered apprenticeships and pre-apprenticeship programs. He noted the budget requests \$303 million to expand, modernize, and diversify registered apprenticeships. He added that the budget also invests in high-quality youth and pre-apprenticeship programs, HBCUs, community colleges, organizations, and community workforce development boards. Rep. Adams then asked for examples of successful outreach efforts with minority institutions. Mr. Walsh pointed to YouthBuild, a grantee of \$24 million in funding for a workforce development program to expand and promote the use of clean energy and solar panels. Mr. Walsh also noted work with Building Pathways, Operation Exit, the criminal justice system, and the NAACP.

Rep. Burgess Owens (R-UT) questioned why the current Administration canceled the Trump Administration's apprenticeship programs. Mr. Walsh asserted the programs were duplicates and were not industry-proven. Mr. Walsh also explained the importance of creating pathways for various sectors including nursing and the trucking industry to combat staffing and supply chain shortages.

### **Workers' Rights and Protections**

Rep. Courtney asked how the Occupational Safety and Health Administration (OSHA) plans to address workplace violence in the healthcare industry. Mr. Walsh noted violence against nurses is up 20 percent this year and stated that DOL is considering OSHA standards.

Rep. Mark DeSauliner (D-CA) asked about worker protections in the global economy. Mr. Walsh stated the budget requests an increase for continued oversight of trade agreements around the world to ensure worker protections. He also highlighted recent work with the international community on labor standards.

Rep. DeSauliner inquired about DOL's position on telehealth and telework. Mr. Walsh stated that DOL is looking to expand telehealth benefits in the workplace. He also expressed support for increasing mental health counseling services and expanding coverage for workers that need access to healthcare.

Rep. Fred Keller (R-PA) asked if it is appropriate for OSHA inspectors to inquire about an employee's vaccination status. Mr. Walsh expressed support if there is a COVID-19 related issue. He argued the Supreme Court ruling is different from OSHA checking on worker safety.

Rep. Pramila Jayapal (D-WA) inquired when the last significant update to federal labor laws occurred. Mr. Walsh asserted it was 50 years ago. Rep. Jayapal then questioned how a National Domestic Workers Bill of Rights would extend anti-discrimination and other workplace protections under federal law to benefit domestic workers. Mr. Walsh expressed support for legislation aimed at extending benefits and improving protections for workers.

Rep. Jayapal referenced an appropriations request submitted last year requesting DOL fund a hotline for domestic workers to anonymously report harassment abuse and other workforce hazards and exploitations. She inquired about the importance of instituting this hotline for domestic workers. Mr. Walsh expressed support for creating a safer place for people to report.

Rep. Andy Levin (D-MI) asked if DOL will work with Congress and patient and provider community leaders to improve patient access to care. Mr. Walsh committed to work collectively to create better opportunities for people with health insurance, including mental health services.

### **Collective Bargaining and Union Organizing**

Rep. Levin commended the Administration's work in leading the White House Task Force on Worker Organizing and Empowerment Report. He noted the report included 70 recommendations to promote worker organizing and collective bargaining for federal workers employed by public and private sector employers. He then asked for an update on the steps DOL has taken to implement the recommendations. Mr. Walsh explained DOL is working across eight departments, agencies, and cabinets. He stated some of the work is through the Good Jobs Initiative and discussions with cabinet members. He also noted DOL is working closely with the Vice President's office and other liaisons in different cabinets to complete an August report.

Rep. Levin inquired about the "persuader rule," which requires employers and labor consultants to report on activities to persuade employees about exercising their rights to union representation and collective bargaining. Rep. Levin asked what steps DOL has taken to ensure that persuader reporting rules are strengthened and enforced. Mr. Walsh explained the role of the Office of Labor-Management Standards (OLMS) is to advance the stated U.S. public policy. He noted OLMS is looking at all reporting requirements on the union side to protect people's right to collective bargaining.

Rep. Bob Good (R-VA) argued the Protecting the Right to Organize (PRO) Act infringes on the rights of workers and employees and hurts the economy by making it more costly to invest in the American workforce. Rep. Good questioned if the "good of an organization conflicts with the good of its employees." Mr. Walsh claimed the two should not be in conflict.

Rep. Jamaal Bowman (D-NY) pointed to plans by OLMS to relaunch a program highlighting the benefits of collective bargaining and cooperative union and employer bargaining relationships. Rep. Bowman asked for an update on these efforts and why the program is important. Mr. Walsh expressed strong support for collective bargaining and workers' right to organize. He reiterated the Administration's support for the PRO Act.

Rep. Joe Wilson (R-SC) asked why the Administration is pushing to eliminate right-to-work laws while the economy is recovering. Mr. Walsh stated opposition to right-to-work states. He expressed support for people's right to unionize freely.

Rep. Haley Stevens (D-MI) referenced [H.R. 7543](#), the "Union Auto Workers Job Protection Act," which would require information about motor vehicle plants at which vehicles are assembled for federal procurement. She then asked how policies like these can work to reward employers who are doing right by their employees. Mr. Walsh expressed support for policies that help workers and expand manufacturing in the United States.

Rep. Michelle Steel (R-CA) asked why DOL withdrew from the Form T-1 rule on trust fund reporting for unions. Mr. Walsh explained the report filed on the T-1 was the same information unions already reported to DOL.

### **Job Corps Scholar Program**

Rep. Frederica Wilson (D-FL) asked if DOL will look into the Service Contract Act exemption and what steps DOL will take to ensure the contractors who are running Jobs Corps Scholars Program are covered under the Act. Mr. Walsh stated DOL is working on realigning and reevaluating Job Corps. He noted DOL is looking at the contracts to ensure staff are being treated fairly, paid good wages, and the program is effective. He emphasized the importance of connecting the 57,000 people who go through the Job Corps each year to jobs.

Rep. Mariannette Miller-Meeks (R-IA) asked how DOL utilized the Jobs Corps during the pandemic to help young people continue their education. Mr. Walsh stated the Jobs Corps faced similar challenges as public schools being forced to transition to online classes. He emphasized the importance of getting everyone back in person to the Job Corps and realigning the program.

### **Inflation**

Ranking Member Virginia Foxx (R-NC) inquired about DOL's actions to ensure new regulations and large increases in spending will not exacerbate inflation. Mr. Walsh emphasized that inflation is causing pain but pointed to the Administration's efforts to lower costs for families and address the deficit. He stated DOL is working on supply chain issues to get more goods and services into the country and working across agencies to bring the cost of inflation down.

### **Wage and Hour Division (WHD)**

Rep. Gregoria Kilili Camacho Sablan (D-NM) asked how many immigrants who obtain a visa are victims of wage discrimination in the U.S. Mr. Walsh noted the Wage and Hour Division (WHD) recovered more than 30 million dollars in back wages for more than 190,000 workers across America in 2021. He added DOL held more than 4,700 outreach events involving 170,000 participants to help people understand their rights and encourage employees to work with the WHD if needed.

### **Fiduciary**

Rep. Tim Walberg (R-MI) expressed concern related to DOL's intent to reinstate the 2016 fiduciary rule, which broadened the definition of when a person or entity was taking on fiduciary responsibilities and replaced the five-part test used to determine whether an investment professional or financial institution is a fiduciary. He claimed this rule was invalidated by the Fifth Circuit US Court of Appeals. He inquired if DOL has reviewed the lawsuit and asked what DOL is doing to ensure the Employee Benefits Security Administration (EBSA) fully complies with the Administrative Procedure Act (APA) requirements. Mr. Walsh explained DOL wants to ensure workers are protected and can save for retirement. He noted DOL allowed a new exemption to go into effect last year including protection for advice on rollovers for employee benefits to Individual Retirement Arrangements (IRAs).

Rep. Allen inquired about DOL's environmental, social, governance (ESG) proposed rule and whether this violates a Supreme Court ruling. Mr. Walsh stated that last year DOL released a proposal to empower financial plan fiduciary to safeguard American workers and noted the DOL is still working on this process.

## **Employer Compliance Assistance**

Rep. Elise Stefanik (R-NY) questioned why the Administration ended the Payroll Audit Independent Determination (PAID) compliance assistance program. Mr. Walsh explained that after evaluating the PAID program, DOL concluded the program deprived workers of their rights to put employers that play by the rules at a disadvantage. He noted the WHD provides significant outreach in educational resources for employers seeking to comply with wage and hour laws. Lastly, he added DOL is rigorously enforcing the law and ensuring that DOL continues to work with businesses to ensure they have the resources needed to comply.

Rep. Wilson questioned why the DOL justifies policies that penalize businesses without providing compliance assistance. Mr. Walsh asserted the goal at DOL is to work collectively and partner with businesses. He noted the DOL budget proposes a \$2.2 billion investment for worker job enforcement, training, and workforce development grants.

## **Worker Classification**

Rep. Stefanik urged DOL to update the Fair Labor Standards Act (FLSA) and set the common law standard for worker classification across all federal agencies. She then asked why DOL is targeting independent contractors by redefining employee status under the FLSA. Mr. Walsh explained that 19 million people do not choose to be independent contractors across the board and people enter into these jobs thinking they are employees and then get paid with a 1099 Form. He emphasized the importance of ensuring that independent contractors have necessary protections.

Rep. Rick Allen (R-GA) referenced [H.R. 7194](#), the "Employee Rights Act," which protects independent contractors from worker classification. He highlighted that America has 11 million job vacancies and asked how DOL plans to work with Congress to address this issue. Mr. Walsh agreed to work with Congress to create more employment opportunities. He noted last year the U.S. saw a 20 percent increase in entrepreneurship, adding that many of these entrepreneurs were women and people of color.

Rep. Levin asked if federal enactment of a restrictive independent contractor model would impact owner-operators in the trucking industry. Mr. Walsh highlighted a recent meeting at the White House with the trucking industry and the Independent Trucking Association. He stated one of the concerns was that the independent truckers were not being paid fair wages and were being undercut because they owned their truck. He emphasized the focus should be on protecting workers, workers' rights, and independent companies that want to be independent contractors.

Rep. Steel asked why DOL is pushing for a national version of the AB 5 law in California that limits the flexibility and opportunity offered by independent contracting. Mr. Walsh claimed DOL is ensuring that people who identify as independent contractors are "truly" independent contractors and are not being misclassified. Rep. Steel argued the AB 5 law is hurting the supply chain crisis and ports in California.

## **Thrift Savings Program**

Rep. Jim Banks (R-IN) asked about the role the Secretary of Labor has related to the Thrift Savings Program, the federal pension program. Mr. Walsh stated he is the Chair of the Pension Benefit Guaranty Corporation (PBGC) board, along with the Secretaries of Treasury and Commerce. He explained the board has quarterly meetings and oversees an administration that runs the program. Rep. Banks asked if DOL was aware of companies using Uyghur slave labor in China. Mr. Walsh stated he was not aware of the situation and pledged to follow up with the Committee.

## **Bureau of International Labor Affairs (ILAB) and United States-Mexico-Canada Agreement (USMCA)**

Rep. Ilhan Omar (D-MN) noted the United States-Mexico-Canada Agreement (USMCA) included over \$200 million to the Bureau of International Labor Affairs (ILAB) for technical assistance to support Mexico's enforcement of its new labor law. Rep. Omar asked what steps ILAB is taking to support this enforcement and protect the rights of independent union workers. Mr. Walsh noted that Deputy Secretary Julie Su visited Mexico and met with the Labor Minister. He also explained DOL has four labor attachés on the ground working on enforcement of the trade agreement. He also highlighted DOL's work with Ambassador Katherine Tai on this issue.

## **Immigration Reform**

Rep. Kathy Manning (D-NC) asked what plans DOL has to address immigration. Mr. Walsh emphasized the importance of creating a pathway to citizenship to help fill jobs in the U.S. He also expressed support for expanding H-2B and H-2A visas to increase the availability of workers for big companies. Additionally, he advocated for comprehensive immigration reform to improve the economy.

## **Comprehensive Paid Family Leave**

Rep. Adams questioned what impact the COVID-19 pandemic and other recent events taught the DOL about the need to have a national comprehensive paid family and medical leave program. Mr. Walsh agreed that the U.S. needed a comprehensive paid family program before the pandemic. He argued the program is very successful in Europe and other countries that offer paid family leave for employees. Lastly, he noted companies who offer paid family leave have higher retention rates and a more productive workforce.

Rep. Lucy McBath (D-GA) asked about the barriers workers face when they attempt to utilize leave under the Family Medical Leave Act (FMLA). Mr. Walsh explained that FMLA is not uniform across the board. He stated paid family leave and child care are two crises facing the economy and there are opportunities to do more to support American workers.

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*Please click [here](#) for the archived hearing.*