

March 17, 2023

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

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

Dear Sens. Sanders and Cassidy:

On behalf of the International Franchise Association (IFA), I write to express opposition to the nomination of Deputy Secretary Julie Su to be Secretary of Labor. Our members have significant concerns about Ms. Su's ability to perform this critical role without bias to the franchise business model—an important engine in the U.S. economy.

IFA is the world's oldest and largest organization representing franchising worldwide. Our organization protects, enhances, and promotes the franchise business model, helping both franchisees and franchisors thrive in their local communities across the nation and around the globe. As you may know, the U.S. is home to more than 790,000 franchise establishments across more than 300 different business format categories. Those establishments support over 8.4 million direct jobs, provide \$825.4 billion of economic output for the U.S. economy, and equate to almost 3 percent of the Gross Domestic Product (GDP).<sup>1</sup> Franchising is found in every community across the country, and IFA members are proud to deliver critical goods and services to our neighbors each day.

Franchising enhances the prosperity of America's workers through competitive wages, skills training, and career growth from entry level to management. In fact, according to Oxford Economics, franchise small businesses pay 2.2-3.4% higher wages than non-franchise businesses, and more than 65% of franchise workers are offered health insurance—a greater percentage than among small establishments in general.<sup>2</sup> Moreover, franchise businesses are owned by a higher percentage of People of Color and other underrepresented communities than non-franchise businesses.<sup>3</sup> Franchises provide to people of all backgrounds the entrepreneurial opportunities that senators can support.

Because of the substantial role of franchising in the U.S. economy and in communities across the country, IFA members have a compelling interest in—and may be dramatically affected by—the Administration's choice for Secretary of Labor. Local franchise businesses regularly engage with the Department of Labor and work each day to meet their obligations under the Fair Labor

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<sup>1</sup> International Franchise Association. *2022 Franchising Economic Outlook*. Pg. 2, Fig. "Franchise Business Economic Outlook: 2018-2022." <https://www.franchise.org/sites/default/files/2022-02/2022%20Franchising%20Economic%20Outlook.pdf>

<sup>2</sup> Oxford Economics. *The Value of Franchising*. Pg 4. [https://openforopportunity.com/wp-content/uploads/2021/09/IFA\\_The-Value-of-Franchising\\_Sep2021.pdf](https://openforopportunity.com/wp-content/uploads/2021/09/IFA_The-Value-of-Franchising_Sep2021.pdf)

<sup>3</sup> Oxford Economics. *The Value of Franchising*. Pg. 21, Fig. 8. [https://openforopportunity.com/wp-content/uploads/2021/09/IFA\\_The-Value-of-Franchising\\_Sep2021.pdf](https://openforopportunity.com/wp-content/uploads/2021/09/IFA_The-Value-of-Franchising_Sep2021.pdf)

Standards Act (FLSA), the Occupational Safety and Health Act, and other laws under the Department's jurisdiction.

Unfortunately, Julie Su has used public office to advance policies that would harm franchising. As Secretary of the California Labor and Workforce Development Agency, Ms. Su supported California's Assembly Bill 5 (A.B. 5), legislation that upended the use of independent contracting in the state, threatening millions of independent workers and the right to pursue the livelihood of their choice. A.B. 5 was poorly conceived, requiring the state legislature to revise the law with over one hundred exceptions and carve outs after its passage, and California voters ultimately rejected the law by overwhelmingly supporting a 2020 statewide ballot effort to curtail it.

Ms. Su also aggressively supported the imbalanced "FAST Recovery Act," or Assembly Bill 257 (A.B. 257), which was signed into law in 2022. This extreme, first-of-its-kind law gives authority to government appointees to decide wages and working conditions at most independently owned, counter-service restaurant franchises across California. In a strong expression of public opposition to the law, over one million Californians signed a petition to reject A.B. 257 in late 2022 and present the law to state voters on the 2024 ballot.<sup>4</sup>

Further, as head of the California Labor and Workforce Development Agency, Ms. Su was responsible for administering California's unemployment insurance program through its Employment Development Department (EDD) at great cost to taxpayers. Ms. Su's mismanagement of EDD is now estimated to have cost California over \$11 billion in fraudulent claims, with billions more estimated to be improperly paid.<sup>5</sup> Under her supervision, EDD stopped determining whether candidates were eligible to receive benefits before distributing them, and ceased to require claimants to certify their eligibility—decisions an independent audit found "compromised the integrity of the program, and may hinder the ability of the department to conduct day-to-day operations in the future." Placing Ms. Su in charge of the federal agency responsible for overseeing the entire nation's unemployment insurance program should be a great concern to senators.

Finally, Ms. Su has made no secret of her disdain for the laws enacted by Congress that, as Deputy Secretary of Labor, she is bound to enforce as written. In 2014, Ms. Su stated that regulators "can't fine people into compliance" but instead should look at "entire industry structures" in a desire to dramatically overhaul workplace protections well beyond what Congress has enacted. Enforcing the law—not creating the law—is precisely the job of the U.S. Secretary of Labor. We are concerned that Ms. Su, as Secretary, would target certain sectors of the economy based, not on the law and the facts on the ground, but on her personal, ideological views of how the American economy should function.

For these reasons, the IFA opposes the Su nomination. Despite being approved for her current role, Deputy Secretary Su and her record should receive renewed scrutiny by the U.S. Senate for

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<sup>4</sup> Axios. "Groundbreaking California fast-food law heads to statewide referendum and big political fight." Jan. 25, 2023.

<sup>5</sup> ABC News. "California paid out \$11 billion in fake jobless claims last year, official says." Jan. 25, 2021. <https://abc7.com/california-edd-fraud-stole-11-billion/10017450/>

the Department's principal role. Last year, the Senate rejected a Department of Labor nominee, David Weil, largely due to his past record of bias against independent contractors and small businesses—views very much like those of Ms. Su's.<sup>6</sup>

The mission of the U.S. Department of Labor is to foster, promote, and develop the welfare of wage earners, job seekers, and retirees. We believe wage earners would be poorly served by a Labor Secretary who is ideologically hostile to wage payers. We recommend rejecting the Su nomination, and we will urge the Administration to nominate a Labor Secretary who will respect the legal bounds of the position and collaborate with, not seek to harm, the small businesses who provide livelihoods to American workers. We pledge to collaborate closely with that person, as we have with former Secretary Marty Walsh.

Sincerely,



Mike Layman  
Senior Vice President  
Government Relations and Public Affairs

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<sup>6</sup> Politico. "How IFA brought down Biden's labor nominee." March 31, 2022.