

March 30, 2023

Senator Bernie Sanders

Chair

Senate HELP Committee

428 Dirksen Senate Office Building

Washington, DC 20510

In the past, Secretaries of Labor have encouraged settlement where a failure in labor negotiations could have a substantial impact on the economic wellbeing of the nation. For example, Secretary Chao actively engaged parties during the negotiations at the West Coast ports in 2002, as did Secretary Perez in 2015. More recently, in 2022, Secretary Walsh engaged in the negotiations between freight railroad companies and the various unions representing their employees. If handled properly, engagement by Secretaries can facilitate a peaceful resolution. The Committee should seek answers from Ms. Su as to how she will approach these challenges.

The groups listed below are further concerned that when Ms. Su led the **California Labor and Workforce Development Agency**, she spearheaded initiatives that jeopardized millions of independent contractor relationships. The independent contractor business model has created prosperity for millions of workers and entrepreneurs. In her capacity as the state's chief labor officer, Ms. Su was integral in the formation and implementation of A.B. 5, which codified language that effectively banned such arrangements in California. The law left millions unsure as to whether they could continue to work as self-employed individuals or would have to seek jobs elsewhere. Controversy and chaos ensued, resulting in a patchwork of legislative solutions with over 200 industries and occupations seeking and securing exemptions from the law. Even with the exemptions, the law proved so unpopular that voters of California overwhelmingly rejected it by passing Proposition 22 in 2020.

Su has also supported California's Fast Food Accountability and Standards Recovery Act (or FAST Act), which gives a board of unelected individuals complete autonomy over the fast food industry, including the power to set wages, establish employment conditions, and create new regulations. This law was opposed by the state's own Department of Finance, which stated enforcement would increase government costs and "could lead to a fragmented regulatory and legal environment for employers and raise long-term costs across industries."<sup>3</sup> Fortunately for

mismanagement of COVID-19-related unemployment insurance funds. Under Su’s tenure, EDD issued an estimated \$30 billion in fraudulent payments, hundreds of thousands of Californians experienced delays in receiving their benefits, and thousands were improperly denied benefits. The California State Auditor<sup>4</sup> did not equivocate when she said, “EDD's inefficient processes and lack of advanced planning led to significant delays in its payment of UI claims,” and EDD “compromis[ed] the integrity of the UI program” when it suspended eligibility determinations for benefits. Nearly a year after COVID-19 first emerged in the U.S., EDD still “[had] not yet adopted best practices for managing the call center, leaving it ill prepared to assist Californians effective

National Retail Federation  
Open Competition Center  
Small Business & Entrepreneurship Council  
Workforce Fairness Institute  
Workplace Policy Institute

CC:

U.S. Senate Majority Leader Chuck Schumer  
U.S. Senate Minority Leader Mitch McConnell  
U.S. House of Representative Speaker Kevin McCarthy  
U.S. House of Representative Minority Leader Hakeem Jeffries