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September 20, 2023

The Honorable Burgess Owens
Chairman
Education and the Workforce
Subcommittee on Higher Education and
Workforce Development
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frederica S. Wilson
Ranking Member
Education and the Workforce
Subcommittee on Higher Education and
Workforce Development
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Owens and Ranking Member Wilson:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing with respect to the September 20, 2023, hearing entitled “Strengthening WIOA: Improving Outcomes for Jobseekers, Employers, and Taxpayers.” AFSCME represents Employment Service (ES) workers across 17 states who play critical roles in the workforce system. I request that this letter be included in the hearing record.

As you consider a potential reauthorization of the Workforce Innovation and Opportunity Act, we urge the Committee to recognize the enormous contributions of the Employment Service (ES) to the broader workforce system. Central to the success of the Employment Service is the merit-based personnel system that ensures they are honest brokers providing high-quality service to job seekers. Merit staff are civil service government workers who match eligible applicants with programs and deliver benefits and services efficiently and effectively. Merit staff conduct the people’s business according to transparent standards, free from political influence and without fear of arbitrary management action or retaliation. Merit staff are professional and resilient and can help safeguard decisions to grant or deny a federal benefit from political whims. Staff hired on a merit basis develop a broad knowledge base that benefits job seekers who rely upon their strong understanding of the workforce programs available.

Efforts to privatize or outsource the Employment Service’s existing high quality, middle-class sustaining union jobs that the merit-based personnel system provides, are short-sighted, misguided and would lead to waste of government funds and poorer service outcomes for job seekers. For example, the reemployment services provided by state merit staff shorten a worker’s period of unemployment by speeding their return to work and produce higher earnings gains, especially for women. A study of Nevada’s Reemployment Eligibility and Assessment program revealed that requiring merit-based staff to conduct all unemployment insurance (UI) program roles resulted in workers being connected to jobs more quickly and lowered total benefit payouts, a cost savings for the government¹.

¹ Impaq International Report: Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada), [ETAOP 2012_08_REA Nevada Follow up Report.pdf \(doleta.gov\)](https://www.doleta.gov/ETAOP_2012_08_REA_Nevada_Follow_up_Report.pdf)

Outsourcing of Employment Service functions during the pandemic provided a cautionary example of the perils of privatization. In response to the pandemic unemployment crisis, Congress enacted a temporary exemption from the longstanding requirement that UI adjudicators be merit staffed. First included in the Coronavirus Aid, Relief and Economic Security (CARES) Act², this temporary exemption resulted in many states contracting with private companies that hired low-paid, poorly trained (if trained at all) non-merit staff to administer traditional and new temporary UI programs, such as Pandemic Unemployment Assistance (PUA). In AFSCME members' experience PUA suffered from a toxic combination of already fragmented ES and UI systems, poorly designed and outdated information technology, and non-merit staff who were untrained and did not understand their roles in a system of public welfare. This led to high turnover among contracted staff and supervisors, bias in the hiring of staff and in job and training referrals and placements, and poor service and long payment delays for claimants³. Further, incomplete and deficient work by outsourced staff increased the workload for state merit staff adjudicators who were forced to clean up vendor staff errors.

We applaud the Biden administration's recent regulatory efforts to restore merit-staffing standards in the Employment Service. Congressional actions and judicial decisions support a state merit staff requirement in the ES. Over the Wagner-Peyser Act's 90-year history, through several statutory amendments and court decisions, the state merit-staffing requirement has remained in place. This indicates a congressional intent to require the delivery of ES services by merit-based employees.

As Congress undertakes legislative updates to the workforce system, we strongly encourage you to support the merit-based personnel system that serves as a vital foundation of the Employment Service. As the union representing Employment Service workers across the country, we welcome the opportunity to provide any further information to the committee about our members' experiences and insights. We thank you for the opportunity to provide our views on these important topics.

Sincerely,



Edwin S. Jayne
Director of Federal Government Affairs

ESJ:LM:dmg

cc: The Honorable Virginia Foxx, Chair
The Honorable Robert C. "Bobby" Scott, Ranking Member
Members of the Education and the Workforce Committee

² 21 Pub. L. 116–136, <https://www.congress.gov/bill/116th-congress/house-bill/748>

³ AFSCME Member Reports. AFSCME members from the following states reported the continued contracting (after the expiration of the CARES Act UI privatization provision Sept. 6, 2021) with private companies to the detriment of state merit staff and claimants: Illinois, Maryland, Nevada, New Mexico and Ohio. Members in Florida, Louisiana, Pennsylvania and New York reported uncertainty about whether their states continued to contract out after the expiration.; Zelnick, Jennifer R. (May 2022) "Privatization, COVID-19, and the future of the ES/UI employment security model in the United States," Working Paper, Labor and Worklife Program at Harvard Law School.