

Congress of the United States
Washington, DC 20515

December 9, 2021

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210

Dear President Biden and Secretary Walsh:

We write to express our concern about how your vaccine mandates will negatively impact law enforcement officers in North Carolina. We write specifically in regards to the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS)¹ that applies to state and local law enforcement in 28 states and territories with approved state plans, including North Carolina.

As directed by the court's nationwide stay, the Department of Labor is pausing implementation of the OSHA ETS while litigation continues.² We encourage you to use this pause to review its effects on state and local law enforcement personnel. While the White House is advertising the ETS as a mandate for private employers,³ state and local government employees in states such as North Carolina—who have chosen to exceed OSHA's minimum safety and health standards to include protection of state and municipal workers—are impacted. At 100 employees, this mandate will cover all but the smallest city and county governments, including their police officers. We are hearing from agencies across our state about officers considering resignation instead of taking the vaccine. At a time when recruiting for new police officers is declining, our communities cannot afford to have fewer officers on the force.⁴

Law enforcement officers have been on the front lines of this pandemic. They cannot telework, they cannot socially distance, and they are essential to our communities. The ETS does not account for the potential of natural immunity from individuals who have already recovered from

¹ COVID-19 Vaccination and Testing; Emergency Temporary Standard, 86 Fed. Reg. 61,402 (Interim Final Rule Nov. 5, 2021) (ratified by 86 Fed. Reg. 64366 (Nov. 18, 2021)).

² *BST Holdings, L.L.C. v. Occupational Safety & Health Admin.*, United States Dep't of Labor, 17 F.4th 604, 619 (5th Cir. 2021); OCCUPATIONAL SAFETY AND HEALTH ADMIN., U.S. DEP'T OF LABOR, COVID-19 VACCINATION AND TESTING ETS, <https://www.osha.gov/coronavirus/ets2> (last visited Nov. 23, 2021) (“OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation.”)

³ See WHITEHOUSE.GOV, PATH OUT OF THE PANDEMIC, <https://www.whitehouse.gov/covidplan/> (last visited Nov. 23, 2021) (“This [ETS] will impact over 80 million workers in private sector businesses with 100+ employees.”).

⁴ See INTERNATIONAL ASSOCIATION OF POLICE CHIEFS, THE STATE OF RECRUITMENT: A CRISIS FOR LAW ENFORCEMENT, *available at* https://www.theiacp.org/sites/default/files/239416_IACP_RecruitmentBR_HR_0.pdf (last visited Nov. 23, 2021).

Covid-19. In the case of law enforcement officers, the mandate could lead to staffing challenges at police agencies and diminish public safety. This is an unacceptable result. OSHA continues to accept public comment on a proposed rule to mandate vaccines. We respectfully suggest this regulatory action is counterproductive and should be withdrawn. Further, OSHA should accept that the ETS is legally flawed and accept the injunction as a permanent action.

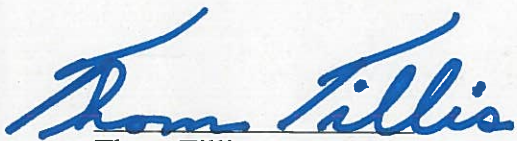
Sincerely,



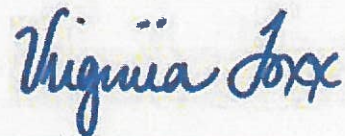
Ted Budd
Member of Congress



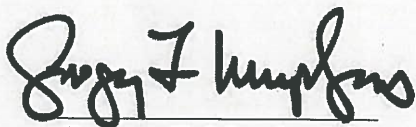
Richard Burr
United States Senator



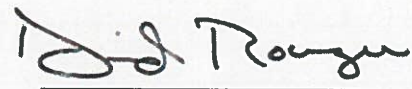
Thom Tillis
United States Senator



Virginia Foxx
Member of Congress



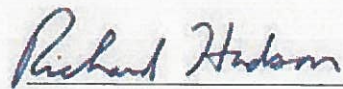
Gregory F. Murphy, M.D.
Member of Congress



David Rouzer
Member of Congress



Dan Bishop
Member of Congress



Richard Hudson
Member of Congress

Madison Cawthorn

Madison Cawthorn
Member of Congress

Patrick T. McHenry

Patrick McHenry
Member of Congress