THE DISPATCH

Fact Checking the State of the Union

President Joe Biden made several false claims.

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President Joe Biden gave his State of the Union address Tuesday night and made a number of misleading and false claims. Here's a breakdown of what was wrong:

Biden claimed in his speech that the tax cut passed under President Donald Trump was geared towards helping only the wealthiest Americans. "Unlike the $2 trillion tax cut passed in the previous administration that benefitted the top 1 percent of Americans, the American Rescue Plan helped working people and left no one behind," he said.

While the top 1 percent of Americans did benefit from the tax cuts, Biden errs in suggesting that working class Americans were left out of those benefits. This claim has been widely fact checked after Biden made the claim in his speech to a joint session of Congress in May 2021. From our fact check then:

> The Tax Policy Center—a non-partisan think tank—found that while the tax cuts did benefit the wealthy, it 'would reduce taxes on average for all income groups.' In fact, according to their analysis 80.4 percent of taxpayers experienced a tax cut thanks to the bill, with those in the lower quintile—with an income of less than $25,000—receiving an average cut of $60 (0.4 percent of after-tax income), in the middle quintile—$49,000 to $86,000—receiving an average cut of $900 (1.6 percent of after-tax income), and in the upper quintile—$308,000 to $733,000—receiving an average cut of $13,500 (4.1 percent of after-tax income). The Tax Policy Center's report on the matter estimated that, 'Taxpayers in the top 1 percent of the

> income distribution (those with income more than $733,000) would receive an average cut of $51,000,or 3.4 percent of after-tax income.’ As Manhattan Institute senior fellow Brian Riedl has noted, this isn’t very surprising: Any broad tax reform is going to disproportionately affect the highest earners as they pay a larger share of their income in taxes and, consequently, a large percentage of tax revenue. Even as the rich benefited, so too did most other Americans. As the *New York Times* reported in 2019, these projections bore out. “The vast majority of people did get a tax cut,” said Nathan Rigney, an analyst at H&R Block’s Tax Institute, told the *Times*.

Biden, members of his administration, and supporters have touted the jobs gained during Biden’s presidency in 2021 as record-setting on a number of occasions, usually leaving out the key context that most of this growth was part of the natural rebound that occurred from the economy reopening following shutdowns caused by the pandemic. Biden once again made this claim in his speech, saying that “our economy created over 6.5 million new jobs just last year, more jobs created in one year than ever before in the history of America.” **The Dispatch Fact Check** addressed this claim in January, noting at the time:

> In February 2020, nonfarm employment in the United States was at 152,523,000 jobs. The stay-at-home orders and stringent lockdown restrictions of the early months of the pandemic caused nonfarm employment to dip to 132,994,000 in May 2020 before a loosening of restrictions caused employment to increase once again. By the time Trump left office in January 2021, nonfarm employment was at 142,736,000 jobs, 2,876,000 fewer than when Trump entered office and 9,787,000 fewer than the employment levels right before the pandemic began.
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> Economists are reluctant to pin job growth or losses on presidential actions, as much of what drives employment fluctuations is caused by factors outside the executive branch’s control, including policies implemented by predecessors. Some economists give Biden’s pandemic response credit for speeding up economic recovery, but much of the job growth that has occurred during the Biden administration has been a result of the natural rebound that occurred when pandemic restrictions were lifted. Shortly after Biden was sworn in, the Congressional Budget Office published *The Budget and Economic Outlook: 2021 to 2031* and predicted the labor market would return to its pre-pandemic size by 2022 as “many people rejoin the civilian labor force who had left it during the pandemic.” Even with 6.4 million jobs regained thus far,

nonfarm employment in the U.S. is at 148,951,000 total jobs, 3,572,000 fewer than employment pre-pandemic.

Biden also claimed that American infrastructure "is ranked 13th in the world," another claim he has made in the past. The ranking he cites comes from a 2019 report issued by the World Economic Forum, a Switzerland-based nonprofit organization that examines the intersection of entrepreneurship and politics. The annual Global Competitiveness Report examines how 141 countries' economies compare. The most recent report came in 2020, but the World Economic Forum has not ranked countries' economies since 2019 because of the pandemic. In the 2019 report, the United States ranked second overall for its competitive economy, down one spot from the year before. In the infrastructure category, the World Economic Forum looked at two subcategories: transportation and utilities, viewed on a 100 point scale.

The U.S. received a score of 96.2 points for its utilities infrastructure, a high score but only the 23rd highest. The United States ranked higher in transportation infrastructure, coming in at 12th with a score of 79.6 points. While the U.S. received a perfect score for road connectivity and airport connectivity, it was brought down severely by the country's railroad scores: 41.3 points for railroad density and 69.2 points for efficiency of train services.

(You can view all of the United States' scores on page 598 of the report.)

As Ian Duncan, a transportation reporter for the *Washington Post*, pointed out, the World Economic Forum rankings' attempt at objectivity fails to capture different priorities in different countries. The United States' population is far more spread out than most developed countries, such as those in Europe where rail density ranks much higher. And even if Biden got all of his transportation goals accomplished, "The forum's scores don't take into account some factors that Biden's plan is designed to address, such as transit service or safety," Duncan wrote.

Later on in his speech Biden also made the following claim regarding his tax plan: "Under my plan, nobody earning less than $400,000 a year will pay an additional penny in new taxes. Nobody."

According to the non-profit and nonpartisan Committee for a Responsible Federal Budget (CRFB), Biden's plan is indeed focused on "higher earners." The plan appears "to be designed to only affect individuals or households with annual income above $400,000." However, as the CRFB notes, Biden's proposed tax increases would fall on corporations and "a corporation is nothing more than an organized group of individuals, and those individuals cannot be easily isolated from the effects of policies that change the tax burden of their respective corporation."

The nonpartisan Tax Foundation also analyzed Biden's plan and noted: "On a conventional basis, the Biden tax plan by 2030 would lead to about 7.7 percent less after-tax income for the top 1 percent of taxpayers and about a 1.9 percent decline in after-tax income for all taxpayers on average."

"The United States is currently imposing hundreds of different tariffs on all sorts of goods including construction materials and consumer items,"

said Scott Lincicome, a senior fellow in economic studies at the Cato Institute and a visiting lecturer at Duke University Law School. "Studies show that the vast majority of those are passed onto consumers, and disproportionately harm lower income Americans who have smaller budgets."

Next, Biden repeated a claim about corporations supposedly paying "zero dollars" in federal income tax in 2020: "Just last year, 55 Fortune 500 corporations earned $40 billion in profits and paid zero dollars in federal income tax."

Biden made this claim when he addressed a joint session of Congress in May. In that address Biden similarly referred to "a recent study" that he claimed showed "that 55 of the nation's biggest corporations paid zero federal tax last year. Those 55 corporations made in excess of $40 billion in profit." The study in question is from the Institute on Taxation and Economic Policy, which describes itself as a "non-profit, nonpartisan tax policy organization." It did indeed report that 55 corporations, such as Nike, FedEx, and Salesforcee did not pay federal income tax in 2020.

Matthew Gardner and Steve Wamhoff, the study's authors, highlighted that: "The 55 corporations would have paid a collective total of $8.5 billion for the year had they paid that rate on their 2020 income. Instead, they received $3.5 billion in tax rebates."

From our fact check in May:

> While it's true that a study did state that 55 larger corporations didn't pay anything in federal tax last year, Douglas Holtz-Eakin, president of the American Action Forum (AAF), told **The**

Dispatch Fact Check that the study itself is "a very misleading presentation." He noted that the report is based not on tax returns, which are given to the Internal Revenue Service, but instead on financial accounts given to the Securities and Exchange Commission, which he says 'are different accounting frameworks and one shouldn't be used for the other.

Furthermore, Holtz-Eakin published a more in-depth explanation on the American Action Forum website, speaking about the limitations of the study: "The ITEP report is not based on tax returns. Instead, it is an attempt to analyze the Securities and Exchange Commission filings of public U.S. firms and pretend to do their taxes. That's a tricky thing as financial reports adhere to Generally Accepted Accounting Principles (GAAP) as set forth by the Financial Accounting Standards Board. GAAP or 'book' income departs substantially from taxable income on returns."

Biden also encouraged lawmakers to "repeal the liability shield that makes gun manufacturers the only industry in America that can't be sued."

This isn't accurate on two fronts. First: Gun manufacturers can be sued. While the liability shield Biden refers to protects gun manufacturers from being sued when their firearms are used to commit crimes, it doesn't protect manufacturers from lawsuits brought over defects or when they knowingly don't abide by federal or state laws regarding the manufacturing or selling of firearms. But the liability shield doesn't offer complete protection from all lawsuits related to crimes carried out with firearms: A lawsuit filed against Remington by the family members of victims from the Sandy Hook school shooting argued that Remington bore some culpability for the shooting because advertising for the gun used by the killer emphasized its use as a combat weapon. As this broke Connecticut state law regarding advertising practices, the lawsuit was allowed to proceed, and the case was settled with Remington agreeing to pay $73 million to the families.

Biden is also wrong to claim gun manufacturers are the "only" industry to receive such protections. The most obvious example is vaccine manufacturers, which are protected from lawsuits over potential side effects from coronavirus vaccines under the Public Readiness and Emergency Preparedness Act. The Food and Drug Administration, which approves vaccines, is protected against lawsuits as well.