

**STRENGTHENING THE ECONOMY AND
IMPROVING THE LIVES OF AMERICAN WORKERS**

HEARING

BEFORE THE

COMMITTEE ON

EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, FEBRUARY 3, 2010

Serial No. 111-44

Printed for the use of the Committee on Education and Labor



Available on the Internet:

<http://www.gpoaccess.gov/congress/house/education/index.html>

U.S. GOVERNMENT PRINTING OFFICE

54-646 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON EDUCATION AND LABOR

GEORGE MILLER, California, *Chairman*

Dale E. Kildee, Michigan, <i>Vice Chairman</i>	John Kline, Minnesota, <i>Senior Republican Member</i>
Donald M. Payne, New Jersey	Thomas E. Petri, Wisconsin
Robert E. Andrews, New Jersey	Howard P. "Buck" McKeon, California
Robert C. "Bobby" Scott, Virginia	Peter Hoekstra, Michigan
Lynn C. Woolsey, California	Michael N. Castle, Delaware
Rubén Hinojosa, Texas	Mark E. Souder, Indiana
Carolyn McCarthy, New York	Vernon J. Ehlers, Michigan
John F. Tierney, Massachusetts	Judy Biggert, Illinois
Dennis J. Kucinich, Ohio	Todd Russell Platts, Pennsylvania
David Wu, Oregon	Joe Wilson, South Carolina
Rush D. Holt, New Jersey	Cathy McMorris Rodgers, Washington
Susan A. Davis, California	Tom Price, Georgia
Raúl M. Grijalva, Arizona	Rob Bishop, Utah
Timothy H. Bishop, New York	Brett Guthrie, Kentucky
Joe Sestak, Pennsylvania	Bill Cassidy, Louisiana
David Loebsack, Iowa	Tom McClintock, California
Mazie Hirono, Hawaii	Duncan Hunter, California
Jason Altmire, Pennsylvania	David P. Roe, Tennessee
Phil Hare, Illinois	Glenn Thompson, Pennsylvania
Yvette D. Clarke, New York	
Joe Courtney, Connecticut	
Carol Shea-Porter, New Hampshire	
Marcia L. Fudge, Ohio	
Jared Polis, Colorado	
Paul Tonko, New York	
Pedro R. Pierluisi, Puerto Rico	
Gregorio Kilili Camacho Sablan, Northern Mariana Islands	
Dina Titus, Nevada	
Judy Chu, California	

Mark Zuckerman, *Staff Director*
Barrett Karr, *Minority Staff Director*

C O N T E N T S

	Page
Hearing held on February 3, 2010	1
Statement of Members:	
Hinojosa, Hon. Reubén, a Representative in Congress from the State of Texas, tri-caucus letter dated January 27, 2010	40
Kline, Hon. John, Senior Republican Member, Committee on Education and Labor	4
Prepared statement of	6
Statement of the Associated Builders and Contractors	44
Miller, Hon. George, Chairman, Committee on Education and Labor	2
Prepared statement of	3
Statement of Witnesses:	
Solis, Hon. Hilda L., Secretary, U.S. Department of Labor	8
Prepared statement of	13
Responses to questions submitted	48

STRENGTHENING THE ECONOMY AND IMPROVING THE LIVES OF AMERICAN WORKERS

**Wednesday, February 3, 2010
U.S. House of Representatives
Committee on Education and Labor
Washington, DC**

The committee met, pursuant to call, at 10:06 a.m., in room 2175, Rayburn House Office Building, Hon. George Miller [chairman of the committee] presiding.

Present: Representatives Miller, Kildee, Payne, Scott, Woolsey, Hinojosa, McCarthy, Tierney, Kucinich, Wu, Grijalva, Sestak, Hirono, Altmire, Hare, Clarke, Shea-Porter, Fudge, Polis, Tonko, Pierluisi, Sablan, Titus, Chu, Kline, Petri, Castle, Ehlers, Biggert, Wilson, McMorris Rodgers, Price, Guthrie, Cassidy, McClintock, Roe, and Thompson.

Staff present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Andra Belknap, Press Assistant; Jody Calemine, General Counsel; Lynn Dondis, Labor Counsel, Subcommittee on Workforce Protections; Carlos Fenwick, Policy Advisor, Subcommittee on Health, Employment, Labor and Pensions; Patrick Findlay, Investigative Counsel; Denise Forte, Director of Education Policy; David Hartzler, Systems Administrator; Ryan Holden, Senior Investigator; Broderick Johnson, Staff Assistant; Gordon Lafer, Senior Labor Policy Advisor; Therese Leung, Labor Policy Advisor; Sadie Marshall, Chief Clerk; Ricardo Martinez, Policy Advisor, Subcommittee on Higher Education, Lifelong Learning and Competitiveness; Celine McNicholas, Associate Labor Counsel; Richard Miller, Senior Labor Policy Advisor; Alex Nock, Deputy Staff Director; Megan O'Reilly, Labor Counsel; Rachel Racusen, Communications Director; Meredith Regine, Junior Legislative Associate, Labor; James Schroll, Junior Legislative Associate, Labor; Michele Varnhagen, Labor Policy Director; Michael Zola, Chief Investigative Counsel; Mark Zuckerman, Staff Director; Kirk Boyle, Minority General Counsel; Casey Buboltz, Minority Coalitions and Member Services Coordinator; Allison Dembeck, Minority Professional Staff Member; Ed Gilroy, Minority Director of Workforce Policy; Rob Gregg, Minority Senior Legislative Assistant; Richard Hoar, Minority Professional Staff Member; Barrett Karr, Minority Staff Director; Alexa Marrero, Minority Communications Director; Ryan Murphy, Minority Press Secretary; Jim Paretto, Minority Workforce Policy Counsel; Molly McLaughlin Salmi, Minority Deputy Director

of Workforce Policy; Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel; and Loren Sweatt, Minority Professional Staff Member.

Chairman MILLER [presiding]. A quorum being present, the committee will come to order for the purposes of conducting the hearing with the Secretary of Labor.

I am honored today to welcome our former colleague and current Secretary of Labor, Hilda Solis, before our committee to share the administration's priorities for the upcoming year.

Secretary Solis joins us at a very trying time for America's workers and families. Our most important job is to get Americans back to work and to rebuild our economy. And Secretary Solis has been in the forefront of this effort not only to put people back to work, but to help train and retrain and develop new career paths for our workers and their families.

The financial scandals have put more than seven million people out of work and left millions more wondering whether they will be next. In just 1 month, the same month that President Obama was inaugurated, 741,000 workers were laid off. This Congress worked immediately with President Obama to create a recovery plan to save our economy from total devastation and reduced the numbers laid off by the end of the year by almost 90 percent.

The impact of the Recovery Act has been undeniable. Without decisive action, we would have been dealing with greater deficits, at least one million more jobs lost, and an economy on the brink. Economists from left and right agree on this.

Since the Recovery Act, we have stemmed the tide of deep layoffs and even posted the first positive month of job growth in more than 2 years. And on Friday we got the news that the economy grew by its fastest rate in more than 6 years.

While this is encouraging, much more work needs to be done. We will not rest until millions of Americans still out of work find a job. And in an especially difficult economy, a responsive Department of Labor is essential to assisting and standing up for workers.

Long before this crisis, America's middle class was already feeling squeezed by a decade-long wage stagnation and benefit cuts. The sad fact is that the average worker makes less today than they did in the 1970s. At the same time, Americans saw the cost of housing, education, health care and energy skyrocket. This path is unsustainable for our middle class.

A vibrant and growing middle-class is crucial to our future competitiveness. Thanks to Secretary Solis, the Department of Labor is playing a central role in our nation's economic recovery and laying the groundwork for a stronger middle class. The Obama administration has laid out an ambitious agenda to rebuild the middle class, to help create good jobs, to train our workers for careers in the future, to protect those workers while on the job, and to improve our nation's retirement security.

Madam Secretary, thank you for your leadership in moving the president's agenda.

This agenda must be ambitious for two simple reasons. First is the need for a sustainable recovery. The early evidence is that it is becoming apparent that we are moving toward better economic news and a growing economy.

The second reason is to revamp the Department of Labor after years of neglect. One critical mission of the department is to protect the health and safety of our nation's workers. For too long OSHA failed to respond to the real dangers that have put American workers in needless peril. Recent enforcement actions by the new administration have been a breath of fresh air. Instead of looking the other way, this administration is holding reckless employers accountable for putting their workers in danger.

The new department also has made strides to protect families' paychecks from unscrupulous employers. The Recovery Act helped to fund an additional 250 investigators to ensure compliance with our nation's wage laws and our child labor laws.

The GAO identified several issues that resulted in the Wage and Hour Division in failing to address the serious allegations of wage theft that left thousands of victims of wage theft from nowhere to turn. In fact, what we saw were employees at the department lying to the American public about their ability to recover their wages and whether or not employers were still available for that recovery.

Especially in this economy, every dollar that an employer steals from a worker is a dollar a family loses to pay for basic necessities. I am eager to hear from Secretary Solis about how she is reinvigorating the wage and hour enforcement.

The Department of Labor also has been working to unwind a number of past initiatives that have diminished workers' retirement security. The department took its first steps by beginning to scrap the special-interest rule that threw the door wide open for financial service companies to provide investment advice to employees where they had a financial interest. The department is tasked to safeguard workers' retirement, not to push policies that pad Wall Street's bottom line.

By statute the Department of Labor is tasked to foster, promote, and to develop the welfare of wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment. I see real progress in restoring this mission. This is partially the result of having a secretary who understands what it means to work for a living.

Madam Secretary, your department has been very busy this year, and the new budget signals more hard work to come. From implementing the Recovery Act to creating good jobs for workers to enhancing the department's enforcement efforts to improving transparency, you certainly have your work cut out for you, and we look forward to hearing your remarks.

At this point I would like to recognize the senior Republican on our committee, Mr. Kline.

[The statement of Mr. Miller follows:]

**Prepared Statement of Hon. George Miller, Chairman,
Committee on Education and Labor**

I am honored to welcome a former colleague and current Secretary of Labor Hilda Solis today to share the administration's priorities for the upcoming year.

Secretary Solis joins us at a very trying time for America's workers and families.

Our most important job is to get Americans back to work and rebuild our economy.

And Secretary Solis has been at the forefront in this effort.

The financial collapse has put more than seven million Americans out of work and left millions more wondering if they will be next.

In just one month, the same month that President Obama was inaugurated, 741,000 workers were laid off.

That was one heck of a welcome gift.

This Congress worked immediately with President Obama to create a recovery plan to save our economy from total devastation.

The impact of the Recovery Act has been undeniable: without decisive action, we would be dealing with greater deficits, at least one million more jobs lost and an economy on the brink.

Economists from left to right agree on this.

Since the Recovery Act, we have stemmed the tide of deep layoffs and even posted the first positive month of job growth in more than two years.

And on Friday, we got news that the economy grew by its fastest rate in more than six years.

While this is encouraging, much more work remains. We will not rest until the millions of Americans still out of work find a job. In an especially difficult economy, a responsive Department of Labor is essential in assisting and standing up for workers.

Long before this crisis, America's middle class was already feeling squeezed by decades-long wage stagnation and benefit cuts. The sad fact is that the average worker makes less today than they did in the 1970s. At the same time, Americans saw the cost of housing, education, health care and energy skyrocket. This path is unsustainable. A vibrant and growing middle class is crucial for our future competitiveness. Thanks to Secretary Solis, the Department of Labor is playing a central role in our nation's economic recovery and laying the groundwork for a stronger middle class. The Obama administration has laid out an ambitious agenda to rebuild the middle class—to help create good jobs, train our workers for the careers of the future, protect those workers while on the job, and improve our nation's retirement security. Their agenda must be this ambitious for two simple reasons. First is the need for a sustainable recovery. And second is the necessity to revamp the department after years of neglect. For instance, one critical mission of the Department is to protect the health and safety of our nation's workers.

For too long, OSHA failed to respond to real dangers and put American workers in needless peril. Recent enforcement actions by the new administration have been a breath of fresh air. Instead of looking the other way, this administration is holding reckless employers accountable for putting their workers in danger. The new department has also made strides to protect families' paychecks from unscrupulous employers.

The Recovery Act helped to fund an additional 250 investigators to ensure compliance with our nation's wage and child labor laws.

The GAO identified several issues that resulted in the Wage and Hour Division in failing to address serious allegations of wage theft that left thousands of victims of wage theft with nowhere to turn.

Especially in this economy, every dollar an employer steals from a worker is a dollar a family loses to pay for basic necessities.

I am eager to hear from Secretary Solis about how she is reinvigorating wage and hour enforcement.

The Department of Labor also has been working to unwind a number of past initiatives that diminished workers' retirement security.

The department took a first step by beginning to scrap a special-interest rule that threw the door wide open for financial services companies to provide investment advice to employees where they had a financial interest.

The Department is tasked to safeguard workers' retirement, not to push policies that pad Wall Street's bottom line.

By statute, the Department of Labor is tasked to "foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

I see real progress in restoring this mission. This is partially the result of having a secretary who understands what it means to work for a living.

Madame Secretary, your department has had a very busy year and the new budget signals more hard work to come.

From implementing the Recovery Act and creating good jobs for workers, to enhancing the department's enforcement efforts and improving transparency, you certainly have your work cut out for you.

The committee looks forward to your testimony.

Mr. KLINE. Thank you, Mr. Chairman, and good morning.

I want to welcome Secretary Solis to the committee for her first appearance since being sworn in as the United States Secretary of Labor a little less than a year ago.

With our nation facing ongoing job losses and widespread workplace uncertainty, your presence is certainly welcome here today, Madam Secretary.

Last week President Obama was quite clear in declaring his administration's commitment to American workers and policies that will address their economic concerns. I applaud him for this focus on jobs and economic security. As policymakers, these other priorities to which we should all be dedicated. Yet, while I appreciate the president's recognition of the economic peril space in our nation, I cannot help but question many of his proposed policies that seem to run contrary to the goal of job creation and economic security.

This morning I look forward to an honest assessment of the Obama administration's labor agenda. The American people want to know who are these policies designed to benefit? Who are these policies designed to harm? And above all else, how will these policies create and sustain jobs?

For example, Secretary Solis recently reaffirmed her support for the misnamed Employee Free Choice Act. We know this policy is designed to benefit labor unions, and we know it will harm small family businesses, employers struggling to stay afloat in a weak economy. But the question remains how will Card Check create and sustain jobs?

Likewise, the administration recently struck a deal with organized labor to exempt union health care plans from a new excise tax to pay for the government takeover of health care. We know this policy is designed to benefit labor unions, and we know a majority of American workers, those who are not members of organized labor, will be harmed by the disproportionate treatment.

But again, we are left to ask how will special benefits for unions create and sustain jobs?

This culture of union favoritism is not limited to legislation. Within the last year the Labor Department has undertaken a series of regulatory changes that include rolling back certain worker protections while setting the stage for broad new regulatory schemes.

For example, shortly after President Obama took office, the Labor Department rescinded new guidelines designed to increase transparency in union finances. In other words, they made it more difficult for rank-and-file union workers to see how their dues are being spent.

Not long after, the department withdrew a plan to give workers access to high-quality investment advice for their 401(k) plans, making it more difficult for workers to navigate these tumultuous financial waters.

How will leaving workers in the dark create and sustain jobs?

The administration has bogged down federal projects with union favoring project labor agreements, driving up costs for taxpayers and shutting out small construction firms. At the same time, major initiatives in the so-called stimulus package, including the weath-

erization program, have been delayed because of flawed Davis-Bacon wage requirements.

How will limiting opportunities for small employers while driving up costs for taxpayers create and sustain jobs?

The Labor Department is revisiting the regulatory path that led to scientifically dubious ergonomics regulations in the previous decade. At the same time, the administration continues to call for massive investment in, “green jobs” while limiting participation in these programs to union affiliates and shutting out the vast majority of the construction industry.

How will cumbersome and confusing new federal mandates and exclusionary policies create and sustain jobs?

Mr. Chairman, the issues I outlined here are just the tip of the iceberg when it comes to the job-killing policies embraced by this administration and, frankly, the majority party in Congress.

One week ago today President Obama told the American people, “Jobs must be our number one focus in 2010.” He is right. And that is why Republicans will not allow a single workplace policy to escape our scrutiny. We will put these policies to the test, because any proposal that does not contribute to an environment for creating and sustaining jobs ought to be abandoned.

Thank you, Mr. Chairman.

And thank you once again, Madam Secretary, for being here at this critical time. Although my colleagues and I had hoped to hear from you much sooner, we are nevertheless glad to have you here today.

I yield back.

[The statement of Mr. Kline follows:]

**Prepared Statement of Hon. John Kline, Senior Republican Member,
Committee on Education and Labor**

Thank you Chairman Miller, and good morning. I want to welcome Secretary Solis to the committee for her first appearance since being sworn in as the U.S. Secretary of Labor a little less than a year ago. With our nation facing ongoing job losses and widespread workplace uncertainty, your presence is certainly timely, Madam Secretary.

Last week, President Obama was quite clear in declaring his Administration’s commitment to American workers and policies that will address their economic concerns. I applaud him for this focus on jobs and economic security; as policymakers, these are the priorities to which we should all be dedicated. Yet while I appreciate the President’s recognition—belated though it may be—of the economic perils facing our nation, I cannot help but question many of his proposed policies that seem to run contrary to the goal of job creation and economic certainty.

This morning I look forward to an honest assessment of the Obama Administration’s labor agenda. The American people want to know: Who are these policies designed to benefit? Who are these policies designed to harm? And above all else, how will these policies create and sustain jobs?

For example, Secretary Solis recently reaffirmed her support for the misnamed Employee Free Choice Act. We know this policy is designed to benefit labor unions, and we know it will harm small family businesses and employers struggling to stay afloat in a weak economy. But the question remains: how will “card check” create and sustain jobs?

Likewise, the Administration recently struck a deal with organized labor to exempt union health care plans from a new excise tax to pay for the government takeover of health care. We know this policy is designed to benefit labor unions, and we know a majority of American workers—those who are not members of organized labor—will be harmed by the disproportionate treatment. But again, we’re left to ask: how will special benefits for unions create and sustain jobs?

This culture of union favoritism is not limited to legislation. Within the last year, the Labor Department has undertaken a series of regulatory changes that include

rolling back certain worker protections while setting the stage for broad new regulatory schemes.

For example, shortly after President Obama took office the Labor Department rescinded new guidelines designed to increase transparency in union finances—in other words, they made it more difficult for rank-and-file workers to see how their dues are being spent. Not long after, the Department withdrew a plan to give workers access to high-quality investment advice for their 401(k) plans, making it more difficult for workers to navigate these tumultuous financial waters.

How will leaving workers in the dark create and sustain jobs?

The Administration has bogged down federal projects with union-favoring Project Labor Agreements, driving up costs for taxpayers and shutting out small construction firms. At the same time, major initiatives in the so-called stimulus package—including the weatherization program—have been delayed because of flawed Davis-Bacon wage requirements.

How will limiting opportunities for small employers while driving up costs for taxpayers create and sustain jobs?

The Labor Department is revisiting the regulatory path that led to scientifically dubious ergonomics regulations in the previous decade. At the same time, the Administration continues to call for massive investments in “green jobs” while limiting participation in these programs to union affiliates and shutting out the vast majority of the construction industry.

How will cumbersome and confusing new federal mandates and exclusionary policies create and sustain jobs?

Mr. Chairman, the issues I outlined are just the tip of the iceberg when it comes to the job-killing policies embraced by the Obama Administration and the majority party in Congress.

One week ago today, President Obama told the American people “jobs must be our number one focus in 2010.” He’s right, and that’s why Republicans will not allow a single workplace policy to escape our scrutiny. We will put these policies to the test, because any proposal that does not contribute to an environment for creating and sustaining jobs ought to be abandoned.

Thank you Chairman Miller, and thank you once again Madam Secretary for being here at this critical time. Although my colleagues and I had hoped to hear from you much sooner, we are hopeful today’s hearing will be the first of many. Thank you, and I yield back.

Chairman MILLER. The gentleman yields back his time.

Madam Secretary, welcome to the committee. It is an honor for us to have you before the committee. In my opening statement I cited all of the various ventures that you are engaged in and working with the Recovery Act, with the administration, with our economy to improve that economy and to improve the opportunities for workers either to stay on the job they now have by improving the economy or training and retraining them for a different job or an improvement in their situation and also to expanding the opportunities for jobs for the future.

It is something that you were interested in when you were here in the Congress and that, of course, is green jobs, where we now see thousands of skilled workers learning new skills for the opportunities that are available around renewable and alternative energy sources. So thank you for all that work.

I would say to the members who are not familiar with Secretary Solis that she was first elected to public office in 1985 as a member of the Rio Honda Community College board of trustees, and served both the California State Assembly and the Senate, and made history as the first Latina elected to the California State Senate.

Secretary Solis worked in the Carter White House Office of Hispanic Affairs and was later appointed to the Civil Rights Division in the Office of Management and Budget. And she was a member of this committee, our colleague in the Congress.

And you make us very proud. As you know the rules here—you have sat in on many of these hearings—Madam Secretary, proceed in the manner in which you are most comfortable. We will give you a little bit of extended time here, but at some point we will put on the orange light, and you can think about wrapping up your testimony. But we want you to be able to present your full testimony as you see fit. Thank you. Welcome.

**STATEMENT OF HON. HILDA SOLIS, SECRETARY,
U.S. DEPARTMENT OF LABOR**

Secretary SOLIS. Thank you so much, Mr. Chairman Miller and Ranking Member Kline. It is a real privilege and honor for me to be here before this committee. It wasn't that long ago that I sat here also with many of you that are still currently serving on this committee.

At that time we were in the minority, but we continue to see the success and progress of what this particular committee has been able to accomplish. So I am very proud this day to be here representing the Obama administration as the Cabinet member representing the Labor Department.

It is wonderful to see so many good friends that are here, and I know that we have had time to share with some of you that have come by or called our offices for assistance. We want to continue to let you know that our open door policy is made available to everyone. And I truly mean that.

We are about trying to provide the best assistance that we can to restore faith and respect and dignity in the Department of Labor. And it is a pleasure to be able to talk to you about some of the things that we have been doing.

And yes, Ranking Member Kline, I agree with you wholeheartedly, as our president has said in his State of the Union message and even long before I was on board as a Cabinet member, jobs, Recovery Act of funding to help restore jobs and try to provide a stimulus for our economy to spur growth for our economy is something that is very, very keenfully a part of our everyday agenda. That is something that I think about every single day.

And while the president and the Congress answered that urgent call last year, beginning in February with the passage of the American Reinvestment Recovery Act, I do have to say that it has made a difference. And I can tell you that, because personally in my travels across this country, I have been able to see how that money has been implemented, where it has hit, and where we continue to see some positive outcomes.

While we know that this recovery is one that has hit so many people, it is something that I think many of us have not seen in our lifetime. We know that we will not lose our focus on making sure that our first priority is getting people back to work.

In my community where I was a recent member in the House 3 years before the official recovery, we saw downsizing of jobs. We saw tremendous unemployment increases in community of color, and we could tell that there was something amiss in our communities. And I knew that that was something that had to be addressed at that time. However, it took a while for us to get here now.

And I just want to tell you that when we look at what has happened over the course of this last year, when the president took office in January, we were losing well over 700,000 jobs, 700,000 to 600,000 every month thereafter.

But I can tell you now each and every month part of my responsibility is to report on those unemployment figures. While I am not happy and satisfied that we continue to see job loss, I will tell you that I, quite frankly, am pleased to see that we have been able at least to stabilize that job loss. So last month in December our report was a job loss of 85,000 jobs.

That is still not good enough. The president and I strongly believe that we have to continue to put forward every single effort that we can to make sure that we work diligently to provide a safety net for those people who continue to lose their jobs and those people that are running out of their current benefits, unemployment insurance benefits, COBRA benefits, that we continue to provide that extension.

First and foremost, the Recovery Act was to provide a safety, security for those people who lost their jobs, so that immediately had to take place with the Recovery Act. And I want to thank all of the members that supported an affirmation of that plan that the president had to provide that funding.

The bulk of that money went through the Department of Labor, and perhaps your communities may not have taken as much note, because people were applying for their unemployment insurance benefits. In fact, they even got an additional \$25 in that plan as well. And you may ask yourself, \$25 may not sound like a lot, but to people in areas where that means a difference between paying for electricity bill and rent and food on the table in these days, that says a whole lot.

That money stays in the community, and it does have an impact after it is released back into the neighborhood. I would say that it was a very good decision on the part of the Congress to be able to move that agenda forward to make sure that we had those security systems in place.

The president went a little bit further, though. He also provided assistance for those people who lost their jobs and lost their health benefits. So COBRA—an extension was put into place. So 65 percent of the cost of health care was also provided for those people that lost their health care. That in many ways has come to, I think, be very significant for people who have lost their jobs. And we know that that is something that continues to be a strong priority for this administration.

Talking about green jobs, yes, that is something that I worked on as a House member here and something that the president and many members of the House and the Senate strongly believe in, that job creation and growth really means a reinvestment and retooling of our manufacturing and industrial base.

And it really means looking at new opportunities, retraining those workers who lost their jobs in the automobile industry, electrical workers, plumbers, pipefitters that may now need to take a different approach in terms of what other job careers are available.

And potentially, my understanding through the reports and facts that I have seen, these jobs will provide anywhere from 10 to 20

percent more in terms of wages. And, of course, we want good paying jobs. We want secure jobs that are also going to provide safety and protection in the workplace.

So along with our whole effort to try to create new job opportunities and to build up our workforce, I think that we are going a step further in our enforcement practices to make sure that the department actually focuses in on the safety and protection of workers.

And, Chairman Miller, you said very pointedly that in previous years the Department of Labor would not take serious many of the calls that came into our department regarding wage and hour theft. That is a big priority for this administration.

The president and I strongly believe that one way of combating that is by making sure that we have more troops on the ground, that we have investigators that are going to comply and know what those rules are and answer those questions and reply and do the best preparation we can to service the public. That is what our job should be.

I want to also touch on something else that we are focusing in on. We talk about job creation. I don't want to just focus in on green jobs, because that is where, yes, a bulk of the funds have gone for job creation and in different pathways. One is targeting partnerships with apprenticeship programs, with community colleges, and with small businesses. And, of course, every opportunity that is made available to provide grants will always be to include small businesses.

We can't create jobs without the input at the local ground level in terms of what the local businesses aspire for us to focus in on, so we basically look from the bottom up in terms of what those locales and regions are looking for. That is what I have asked my new administration, my leadership in the employment training program to do, to focus in on making sure that we are really addressing the needs of the local people that really have a better sense of how these programs should be funded.

I also want to mention that in the coming weeks we will also be awarding \$220 million of grants in health care careers and also in IT and broadband expansion. And what I would like to say there is we know from evidence in the last year that one job creator that we know is sure to continue is going to be in the health care arena.

That number of jobs that has grown over the past year is well above 600,000. And it is going to continue to grow. And as the president moves forward in his efforts to reform health care, there is going to be more capacity to grow in these different job areas. So I see the demand continuing to grow.

As we move into IT, that is another big issue where I think that all of us can share in, that we need to make sure that we have a very competitive workforce, that we are training for the right skills, and that we make the most opportunities available for everyone.

What I am really happy to report is that for so many people, dislocated workers, for also unemployed youth, for high school dropouts, for individuals of different communities and areas suffering from high unemployment, and autoworkers have been the target of much of the grants that we have been awarding in the past 3 and 4 weeks.

And I have to tell you that the kinds of coalitions that I see occurring, and one example I want to share with you is in Florida. Broward County Minority Builders Coalition partnered with the International Brotherhood of Electrical Workers, Local 729, to extend green job training opportunities.

And I can go on and on and on about what I have seen in terms of people on the ground actually getting enrolled in these programs, changing careers, even, because they felt the career that they had was at a dead end. And now they see a potential of getting into a whole new, perhaps a green job or even one in the health care arena that provides them with a career path, not just a job that is short-term, but a potential to actually move up the ladder.

So we are really looking here at investments that are not just about getting out of the recovery, but making a systemic change in our entire infrastructure. And it is about creating good paying jobs, middle-class jobs that will put people back in that position that we have lost over the last decade.

I also want to mention that we have also provided grants in Minnesota. Honeywell and two Chamber of Commerces joined with the United Steelworkers to train workers there.

We also provided assistance for women, women in nontraditional roles in Long Beach, California. Through the Women's Bureau, we provided a grant for women in nontraditional roles, in green curriculum and also in pre-apprenticeship program. This is an area that we have to continually focus in on.

While we believe that more women are participating in the workforce, their earning capacity has not kept at the same rate or equivalent to their male counterparts. And that is something that we have to address. We can do it by working together by providing women with those tools that are necessary.

Also, I would like to say that we can't lose sight of the enormous contributions that our veterans have made, in particular those that are coming home from Iraq and Afghanistan, many young men and women, who perhaps their first job was signing up for the military and may not have the appropriate skill and training sets that might make them marketable right away.

We are doing everything we can through our vets department to help provide assistance, to make sure that we can give them counseling, identifying any job opportunities and assistance for those that may need it, and their families. We are also talking about homeless veterans and women homeless veterans. That is one area that I know in the past has not been addressed adequately, and we are looking to see a more proactive agency now.

And I am very delighted that all of my assistant secretaries in these different divisions that are now taking up the mantle to see that we really dig deep into our programs, cut out inefficiencies and fat, and make sure that we make these dollars extend in every way that we possibly can.

And I want to just turn very quickly to something that the president said and he made clear in his State of the Union address. And again, he did underscore job creation—jobs, jobs, jobs. And when he talks about jobs, I talk about good jobs, secure jobs, jobs that put people back in the middle-class.

He is talking about asking the Congress to pass a jobs bill that will include investments in small businesses, that include tax credits to hire new workers and raise their wages, investments in our infrastructure, in road, bridge, rail and port projects.

I just happened to be last week in Ohio, where we issued a \$400 million grant for high-speed rail that will create a tremendous number of jobs for the next couple of years. And you can see where other states are joining in efforts collectively to see how there can be a seamless system of transportation for different regions in our country. So I was delighted to be a part of that, even though that funding doesn't come directly out of my budget.

But again, we are concerned about the workforce and who is adequately trained for those jobs, that they have the best qualified employees and that we have every opportunity to make sure that businesses are partners in that job creation.

The last thing I would like to say to you is one of the most important things that we can do is focus in on our enforcement of our laws, our current laws that are on the books and, as was said by our chairman here, having someone who takes serious the enforcement of our laws in Wage and Hour and OSHA, providing for assistance for those individuals that are robbed because of their wages or not paid overtime or not given appropriate attention.

Everyone deserves to have someone fighting for them. If they have put in a hard day's work, if they go into work, they should be able to come home safe at night. I am very troubled with many of the things that I have seen occur in the past few years with respect to miners, the fact that we do have some issue areas that we have to address. And that is the problem that I want to work with you.

If any of you here have proposed legislation and have interest there because of the districts that you represent, it is something that I take very seriously. Job safety and protection for those workers and their families is equally important to me.

I want to tell you that in OSHA so far we have been able to conduct 2,000 inspections in the workplace when we received our Recovery Act money. That allowed me to build up our staff to provide more investigators in the field, and I can tell you that we are turning things around the Department of Labor.

Things are slow, as the president has said before to me and many members of his cabinet. It is like moving a giant—how could I say—Navy fleet. To get them to turn a corner takes a tremendous amount of energy and focus. And I can tell you that we are moving every single day. Our rudders are on, and we would like to see progress as badly as we know that the public wants to see more job creation and recovery of our economy. I feel very confident that we are going to be able to see this through.

One last item. I know that many of you here are very focused on the WIA, the reauthorization of the WIA Act. That is something that from day one when I got to the Department of Labor, I made it a point to underscore with my staff that we would be engaged in every way we can.

So far we have made ourselves available to the Senate committees that have jurisdiction. We are there to provide technical assist-

ance. We want to do that with members that are here in the House that are also going to be engaging in the reauthorization.

The president wants to let you know that what we are looking for in the reauthorization of the Workforce Investment Act will include streamlining of service delivery, one-stop shopping for high-quality services, engaging employers on a regional and sectoral basis, improving accountability, and promoting innovation. These are all the major goals that we will strive to include as we go through the reauthorization of WIA.

With that, Mr. Chairman and Ranking Member, I am happy to answer any questions. Thank you.

[The statement of Secretary Solis follows:]

**Prepared Statement of Hon. Hilda L. Solis, Secretary,
U.S. Department of Labor**

Chairman Miller, Ranking Member Kline, and Members of the Committee, thank you for inviting me to testify today. I would also like to thank my good friend George Miller and many other friends on this Committee for all of your support over the years. As a former member of this Committee, I know very well all the hard work you and your colleagues do to assist working families across America.

I am pleased to be the 25th Secretary of Labor because I believe in the Department of Labor's mission—to foster and promote the welfare of job seekers, wage earners, and retirees through a variety of means. I came to lead the Department at a time when working families were struggling, and I came to make a difference. Workers were struggling to feed their families, pay bills, and plan for retirement as unemployment levels were reaching highs that we had not seen in decades.

Working people across America desperately needed help, and I knew the Department would be instrumental in advocating for their needs. I am proud that the Department of Labor quickly acted to implement the American Recovery and Reinvestment Act of 2009 (Recovery Act). While working families continue to struggle in these tough economic times, the Department of Labor is working incredibly hard to help. We are assisting individuals who need unemployment insurance benefits, workers who lost their jobs but need continuing health coverage for themselves and for their families, young adults who need help getting a summer job, and people who want job training for a new career or other employment-related services. In a labor market where jobs are difficult to find and workers are glad to have the jobs they hold, it is too easy for workers to be exploited. We are strengthening our efforts to be vigilant in protecting the rights and safety of workers by hiring additional enforcement personnel and reviewing and improving our regulatory efforts.

While we have accomplished a great deal, I know that we can and must do more. My vision for the Department is “Good Jobs for Everyone,” and that means that we as a country need to work together to create new and better jobs for the 21st Century economy.

The Economy in Early 2009 and the Need for Action by the Department of Labor

When I walked into the Department of Labor for the first time, I knew that I had to act quickly to assist workers and their families who were trying to make ends meet in light of devastating job losses.

As of January 2009, an astounding 3.8 million jobs had been lost since the start of the recession. Job losses were large and widespread across nearly all major industry sectors. Just in the fourth quarter of 2008 alone, almost 1.7 million jobs were lost. To put this number in perspective, this is about 100,000 more than the number of jobs lost between March and November 2001, the official time period of the previous recession.

People in the manufacturing sector faced especially difficult times. By January 2009, 1.1 million manufacturing jobs had been lost since the beginning of the recession. These losses represented almost 30 percent of total payroll jobs lost and made up the largest share of job losses among the major industry sectors. To make matters worse, the manufacturing sector was already struggling. Manufacturing employment was at a 63-year low. From January 2001 to January 2009, 4.5 million manufacturing jobs had been lost.¹ Over the previous 20 years, manufacturing em-

¹OASP calculations of CES establishment survey data.

ployment had steadily declined. This decline greatly accelerated between January 2001 to January 2009, to a rate of negative 3.7 percent per year.

These numbers are large, and they represent real people. Our brothers, sisters, friends, and neighbors are represented in these numbers. By the end of my first quarter as Secretary of Labor in 2009, the national unemployment rate climbed to 8.6 percent.² Communities of color experienced even higher rates of unemployment. In early 2009, Latinos were unemployed at a rate of 10.8 percent and African Americans were unemployed at a rate of 13.3 percent. Young people also faced high rates of unemployment; 21.6 percent of teenagers were jobless.³ The number of unemployed persons continued to reach record levels month after month.

The difficulties in the labor market are exacerbated by other problems. The depth and severity of the recession worsened states' fiscal problems, especially since increasing unemployment levels reduced states' income taxes and increased demand for services. States' budget woes then challenged their abilities to serve the public. While the numbers of individuals filing for unemployment insurance were rapidly increasing, state unemployment insurance trust fund balances were deteriorating. Trust fund balances fell from \$38.2 billion in 2007 to \$20.6 billion in the first quarter of 2009—a 46 percent decline. In January 2009, initial UI claims (not seasonally adjusted) reached nearly 957,000, a level not seen in a generation. In March 2009, the number of people requesting regular UI benefits (continued claims, not seasonally adjusted) reached a series high of 6.5 million. The huge volume of demand in 2009, coupled with aging technology, resulted in three states experiencing crashes to their mainframe system for UI.

People who expected to be in their peak earning years were struggling to find employment and maintain retirement savings. Individual households faced mounting financial threats due to the instability of their retirement accounts. Despite workers' needs for retirement security, according to the Federal Reserve Board, in March 2009 assets in retirement accounts were \$4.3 trillion, down 33% from a peak of \$6.4 trillion at the end of 2007. According to data from the Federal Reserve, pension fund reserves held by households and non-profit organizations fell 26 percent from \$13.4 trillion at the end of 2007 to \$9.9 trillion in the first quarter of 2009.⁴

In light of these overwhelming challenges, I am proud that the Department quickly came to the aid of workers, and I describe some of our actions below.

DOL's Achievements in 2009 and Under the Recovery Act

After working closely with Congress, President Obama signed the Recovery Act into law to rescue and rebuild the American economy. I know that the Recovery Act has put people back to work and has saved jobs. I have visited numerous Recovery Act-funded projects in communities across the country. As of December 31, 2009, the Department has spent \$59.7 billion for Recovery Act programs. Over \$55 billion has been provided to states to support and expand Unemployment Insurance, and more than \$3 billion has been issued in grants to states to provide training and employment services to adults, dislocated workers and youth. We acted quickly to protect workers who lost their jobs and provide new training opportunities for them and for people looking to upgrade their skills or change careers.

We worked with states to make changes to eligibility requirements for UI benefits, giving more jobless workers access to benefits, and extended the period of eligibility for workers who lost their jobs. We also quickly increased the amount of unemployment benefits that people received by \$25 a week. An extra \$100 a month can go a long way towards paying for groceries or helping with rent, and I am proud that DOL's Employment and Training Administration (ETA) was able to quickly assist the American public.

As I mentioned earlier, States' budgets were, and still are hurting, and this has impacted their ability to get UI benefits into the hands of workers. The Department rapidly made \$7 billion available for states that chose to modernize their UI system. So far, the Department has distributed \$2.8 billion to 32 states for modernization incentive payments, which together with the extended and emergency benefits programs, has resulted in increasing the share of unemployed workers receiving benefits to its highest level in over 30 years.

ETA also quickly distributed funds to states to serve more than 2.3 million workers through state employment-related services. An estimated 170,000 workers who were adversely affected by foreign trade have received Trade Adjustment Assistance

² Quarterly CPS household survey data for the national unemployment, available at <http://www.bls.gov/web/cpseed8.pdf>.

³ Quarterly CPS household survey data, available at <http://www.bls.gov/cps/tables.htm#quarterly>.

⁴ <http://www.federalreserve.gov/releases/z1/Current/z1r-4.pdf>, p. 64.

benefits and assistance. We have also released over \$60 million in Recovery Act-funded National Emergency Grants (NEGs) to help an estimated 29,500 dislocated workers. In Calendar Year 2009, we released more than \$82 million in NEGs funded by our appropriations, and this funding is expected to help more than 17,000 dislocated workers. Our efforts have helped Americans get back to work. For example, a North Carolina worker, who was laid off in March 2009 after working three years as a rigger/welder earning \$15.00 per hour, began training in May in the construction pre-pipe and pipe welding field with funds provided by the Workforce Investment Act (WIA) Dislocated Worker program. He was quickly hired before his training was completed by a construction company as a pipe welder. Today, he is working at a site in Savannah, Georgia earning \$17.00 per hour plus a daily stipend of \$55.00. We know that there are and will continue to be many more success stories like this one across the country.

The Employee Benefits Security Administration (EBSA) also quickly assisted workers who lost their jobs but needed continued health coverage. Under the Recovery Act, individuals may apply for premium reductions for continuation of health benefits provided under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Eligible individuals pay only 35% of the cost of their COBRA premium, enabling many American workers and their families to maintain health coverage they otherwise could not afford. In the weeks after the Recovery Act became law, EBSA published model notices and created an appeals process for individuals whose subsidy applications were denied. The Department worked to provide fact sheets, FAQs, posters, and additional information to help educate workers about their rights, conducted numerous outreach activities, and launched a dedicated website that has hosted over 2.3 million visitors. I am proud to say that EBSA has responded to over 170,000 COBRA inquiries and handled more than 14,000 appeals since the inception of the subsidy. In fact, more than 99 percent of the appeals received were decided within the 15 day statutory deadline provided by Congress. When the COBRA premium subsidy was extended as part of the 2010 Department of Defense Appropriations Act, EBSA again acted quickly to update existing guidance and issue new materials to make sure this critical program continues without disruption in FY 2010. For many of these individuals, access to affordable health coverage is a matter of life or death.

The Recovery Act also bolstered one of the Department's Fiscal Year (FY) 2010 budget priorities—to begin to restore the capacity of our programs that protect workers' safety and health, pay, and benefits. The Department worked to enforce worker protection laws under Recovery Act-funded projects. For instance, the Occupational Safety and Health Administration (OSHA) conducted over 1,900 inspections of workplaces receiving Recovery Act funding to assure that workers involved in these projects were adequately protected from safety and health hazards. The Wage and Hour Division (WHD) issued prevailing wage determinations and guidance for Recovery Act-funded weatherization projects and is actively engaged in ensuring that workers on those projects receive the wages to which they are legally entitled. The Office of Federal Contract Compliance Programs (OFCCP) completed 59 compliance evaluations. One case of compensation discrimination against an African-American male resulted in \$24,894 in back pay being awarded.

In order to restore our economy, we must create jobs and make sure that workers benefit from the protections to which they are entitled. We have made significant progress in restoring worker protection programs to their FY 2001 staffing levels. Approximately 710 enforcement personnel have been hired in the Wage and Hour Division, the Occupational Safety and Health Administration, the Office of Federal Contract Compliance Programs, the Mine Safety and Health Administration (MSHA), and the Employee Benefits Security Administration. We have seen significant results from our hiring efforts. Our work helped return money to workers who rightfully earned it. OFCCP entered into more than 96 Conciliation Agreements on behalf of more than 21,000 affected workers in calendar year 2009. Their work resulted in back pay awards of more than \$9 million and more than 2,000 potential job offers to provide relief for affected American workers who were discriminated against under laws enforced by OFCCP. WHD has recovered more than \$172.6 million in back wages for approximately 220,000 workers. In FY 2009, EBSA's work on retirement and welfare benefit plan security achieved \$1.3 billion in total monetary results. Our worker protection efforts touch the lives of nearly every worker, and we will continue to ensure that workers are protected by the law.

DOL is also looking for innovative ways to promote economic recovery. For example, employment training services are divided by geographic boundaries even though regional economies cross city and state lines. That is why we created a new type of NEG, called Regional Economic Impact NEGs. These new NEGs allow for a regional approach to workforce services in response to layoffs and economic events

across a region. We have seen several states impacted by automotive layoffs, such as Michigan, apply for and receive funding through this mechanism. In late September 2009, the Department provided a NEG of \$18.6 million to assist over 1,000 workers affected by layoffs in Southeast Michigan, which includes several counties and the Detroit Metropolitan Area. This grant will also allow the state to serve workers within this regional economy affected by layoffs occurring over the next year. By Michigan's estimates, this could total approximately 7,200 workers.

How the Department of Labor is Making a Difference for Workers

In the December 2009 Employment Situation report, the Department's BLS reported that the economy lost 85,000 jobs and that the unemployment rate remained unchanged at 10.0 percent. We received encouraging news of very modest gains in payroll employment in November 2009, which was the first month showing an increase in jobs since December 2007. While any job lost is one job too many, our economy was losing close to 700,000 jobs a month one year ago.

Although the rate of job loss has slowed dramatically in recent months, hiring has not increased broadly. As a result, the ranks of the long-term unemployed have grown. About 40 percent of the jobless have been looking for work for over six months. Studies have pointed to the challenges that arise for people who have been out of the labor market for substantial periods of time. That's why we need reemployment and training programs that will get them back to work.

The Administration has worked aggressively to minimize job losses, stimulate the economy and address the special needs of persons who have been out of work for extended periods of time. I will continue to do my best to see that America's workers have the tools they need to succeed.

The Department is looking to train the workers of the future. During my travels throughout the country, I have met people who have gone back to school and changed careers to prepare themselves for 21st Century jobs. Jobs continue to grow in the clean energy and health care sectors. Green jobs play an important role in our economic recovery, and like so many other jobs in the construction trades, they tend to pay above average wages. I believe that they are also the jobs of the future. The Recovery Act provided the Department with \$750 million for worker training and placement grants to prepare workers for careers in high growth and emerging industries, including \$500 million for research, labor exchange, and job training projects in the energy efficiency and renewable energy industries. Four of the grant competitions are designed to serve workers in need of training through various national, state and community outlets: Energy Training Partnership Grants; Pathways Out of Poverty Grants; State Energy Sector Partnership and Training Grants; and Green Capacity Building Grants. The fifth competition, for State Labor Market Improvement Grants, will provide funding for state workforce agencies to collect, analyze and disseminate labor market information and develop labor exchange infrastructure to direct individuals to careers in green industries.

Much of this funding has already been awarded. I am proud to report that the Department made it a priority to award grants to applicants who serve low-income workers, unemployed youth and adults, high school dropouts, communities of color, areas of high poverty, and other underserved sectors and vulnerable members of the workforce. We also set aside funding to serve workers who were hardest hit by restructuring of the automotive industry.

We received a record number of grant applications for these green jobs training grants. For example, the Pathways out of Poverty competition brought in over 450 applications for \$150 million in grants, and we could fund only 38 grants. For the Energy Training Partnership competition, we received over 180 applications, but were only able to fund 25 grants. We believe that this level of interest represents the need for resources that focus on training, particularly in green jobs, which complements job creation efforts. We also believe this interest represents the need for assisting people who are already working, but who may be underemployed, to gain skills that will help them move into better, higher-paying jobs in emerging sectors.

The spectrum of activities supported by these grants is exciting. In Ohio, the non-profit organization Improved Solutions for Urban Systems, Inc., working with its partners, is developing a competency-based curriculum for green job training in energy efficiency and renewable energy careers. The project will train YouthBuild participants and Construction and Manufacturing Institute students in one or more green industry areas leading to industry-recognized certifications and credentials. The project will also assist students in attaining high school diplomas and place high school graduates in employment and continuing education.

Another grant will have useful applications in both residential and commercial buildings right here in Washington, D.C. ARCH Training, Inc. (ARCH) will develop and adapt curricula focusing on the energy conservation and solar industries to pre-

pare trainees for national and industry-recognized certification exams. A 'Green Jobs' job preparation guide will be prepared for graduates entering the workforce, and an employer guide will be developed to help businesses determine the skill sets of applicants. It is projected that the number of individuals trained will increase by 35 percent as a result of this grant. In addition, the Women's Bureau is doing its part by holding Green Jobs Roundtables throughout the country and by preparing a Green Jobs Guide.

As you know, with the aging of our population and other factors, the demand for health care workers continues to grow rapidly. The health care sector has continued to grow throughout the recession despite steep job losses in nearly all other major industries. For example, hospitals and other ambulatory care settings, such as long-term care facilities, added approximately 25,000 new jobs in February 2009 even though 681,000 jobs across the nation were eliminated that month. BLS projects that health care and social assistance employers will generate four million new jobs between 2008 and 2018. To help meet this demand, the Department competed \$220 million in Recovery Act grants to assist workers pursue careers in health care and other high growth and emerging industry sectors. High growth and emerging industries often differ in specific regions. Fields like information technology, advanced manufacturing, wireless and broadband deployment, transportation and warehousing, and biotechnology may be high growth and emerging industries in specific regional economies. In our grant solicitation, we asked applicants to define local high growth or emerging industries based on specific criteria, such as expected job growth. We expect to award these grants soon.

In preparing workers for jobs of the future, the Department realizes that multiple stakeholders will need to work together to achieve the desired outcomes. In creating the criteria for many of the grants discussed above, we required applicants to include partners made up of a diverse set of stakeholders, including labor organizations, public or private employers, and the local workforce system. We also gave special consideration for partnerships that included community-based organizations. In bringing together the expertise of these diverse stakeholders, I hope that grantees will develop effective programs that are responsive to the needs of both workers and employers. For example, in Minnesota, Honeywell and two chambers of commerce have joined the United Steelworkers (USW) to train workers. Also in Florida, the Broward County Minority Builders Coalition partnered with the International Brotherhood of Electrical Workers (IBEW) Local 729 to extend green jobs training opportunities.

The workers of the future are a diverse group. This is why we encouraged applicants who serve communities of color, women, veterans, and people with disabilities. Many Recovery Act grantees will train workers from these communities. In our efforts to train workers, we have created new partnerships with other departments, such as the U.S. Department of Housing and Urban Development, so that we connect residents in public housing with green jobs. In a joint letter, Secretary Donovan and I encouraged local Workforce Investment Boards and Public Housing Agencies to work together to bolster pathways to training and employment for residents of HUD housing.

We know returning veterans can contribute greatly to our economy. The Veterans' Employment and Training Service (VETS) is actively working to provide services to homeless veterans, with an increased emphasis on assisting homeless women veterans, whose numbers have increased. VETS also is vigilant in assuring veterans' rights to reemployment after returning from a deployment to fight for our country are protected. VETS will continue to provide veterans and transitioning service members with the resources and services to succeed.

We are also making real investments in the lives of our future generations and seniors. Using Recovery Act dollars, we have been able to expand programs that serve disadvantaged youth. For example, the Department funded an additional 75 YouthBuild projects in 2009, which is a 69 percent increase compared to the previous year. YouthBuild projects can make a real difference in young people's lives by providing job training and educational opportunities for low-income or at-risk, out-of-school youth ages 16 to 24. We also invested over \$200 million in more than 600 construction projects to improve Job Corps facilities. Job Corps is the nation's oldest and largest federally-funded job training and education program for economically disadvantaged youth ages 16 through 24. Students receive hands-on training in more than 100 occupational areas. These areas include some of the fastest growing job sectors such as health care, information technology and renewable energy. During my visits to Job Corps centers, I have seen firsthand how young people are given the opportunity to develop the education and skills they need to succeed in the new economy.

The Recovery Act also provided funding to local areas to support programs that employed 317,584 youth this past summer. With extraordinary efforts, these local areas worked hard to provide quality work experiences. Recovery Act funding supported real work opportunities for our nation's youth in a variety of industries including green and other high growth and emerging industries. I know that our young people have been hit hard by this economy, and this program created real employment opportunities for them. These jobs also provide a critical early labor market experience for youth, an experience which will increase their long-run labor market success.

Our nation's seniors also benefited from an additional \$118 million in Recovery Act dollars for the Senior Community Service Employment Program (SCSEP). SCSEP provides community service opportunities for unemployed, low-income seniors with poor employment prospects—especially in this challenging economy. Recovery Act funding has expanded the number of SCSEP participants. The FY 2010 appropriation provided more than \$825 million for this program, including a one-time appropriation of \$225 million to be spent immediately. DOL expects to enroll more than 100,000 seniors in part-time, minimum wage community service positions.

In addition to investments in these important programs, the Department will continue to protect workers in the new economy. We want to contribute to a sustainable economy where workers' earnings rise with productivity and allow employment, consumption and savings to rise. The Department will continue to fight to recoup those wages to which workers are legally entitled and improve worker safety.

I take the failure to pay workers the wages that they have earned very seriously, and I am committed to enforcing all employment laws—particularly those related to payment of the minimum wage and overtime. Workers deserve this money and it will bring money to low-income households where most of it will be spent and help invigorate local communities. As I noted earlier, we have already increased staffing of enforcement officials. The improved staffing levels have helped secure millions of dollars in back wages for thousands of workers. As these new investigators grow into their jobs, they will be an even stronger force for securing compliance with these basic labor standards protections.

In the jobs of the future, I will work to ensure that workers' rights will be protected. In order to rebuild the middle class, we need to level the playing field and restore fair play for all working people. The growing inequality in wages and benefits is partially due to the increasing obstacles workers face in forming unions and engaging in collective bargaining. We need to restore their freedom to do so. This is why the President and I support the Employee Free Choice Act. I know from personal experience that union jobs are good jobs, pay higher wages than non-union jobs, and provide flexibility and benefits like paid leave, child care, education assistance, and retirement security. This legislation can help give workers a voice in the workplace.

In the jobs of the future as well as in jobs of the present, workers should be safe at their workplaces. I am proud that OSHA is restoring its capacity to strongly enforce statutory protections, provide technical support to small businesses, promulgate safety and health standards, strengthen the accuracy of safety and health statistics, and ensure that workers know about the hazards they face and their rights under the law. OSHA diligently inspects workplaces where millions of people are employed and is constantly working to ensure that employers are providing safe working conditions for their employees. In 2009, the Department issued the largest proposed penalty against an employer in the history of OSHA. OSHA also issued nine "egregious" workplace health and safety citations involving flagrant violations for employers who knowingly exposed workers to deadly hazards. OSHA is also focusing its efforts on ensuring that hard-to-reach workers know about their rights and the hazards they face. For example, in April 2010, OSHA will hold a safety and health summit to ensure that Latino workers in Texas have the tools they need to ensure their safety. Latino workers often work in high hazard industries and are more likely to get injured or killed on the job. We are also making sure that green jobs are safe jobs. OSHA is focusing on preventing injuries and illnesses among workers who do renovation, weatherization, and work on potentially hazardous machinery.

To improve worker safety, MSHA has announced a comprehensive strategy to end new cases of black lung among the nation's coal miners. The goal of MSHA's initiative is to curb debilitating and potentially fatal diseases caused by coal mine dust. MSHA is celebrating 40 years of legislation aimed at improving working conditions for America's workers, and last year, MSHA celebrated the safest year in mining in U.S. history. For its part, WHD is increasing its focus on those workers who are most vulnerable: young workers, farm workers, and those who toil in labor intensive industries at the lowest levels of compensation. In 2010, WHD will launch a multi-

lingual public awareness campaign titled “We Can Help” to reach these vulnerable workers who are so often reluctant to report violations and fearful of exercising their rights to a minimum wage and overtime pay. All workers have a right to a safe and fair workplace, and we will work hard to achieve this goal.

The Department of Labor’s Goals for 2010

In the beginning of my testimony, I said that my vision for the Department of Labor is “Good Jobs for Everyone.” Everyone throughout the Department knows of my vision and knows that the work they do everyday helps make this vision a reality. And here are some of the ways that I define a good job.

A good job can support a family by increasing incomes, narrowing the wage gap (for example, wage gaps between men and women and gaps experienced by communities of color), and allowing workplace flexibility.

A good job is safe and secure and gives people a voice in the workplace.

A good job is sustainable and innovative, for example a green job.

A good job will help rebuild a strong middle class.

A good job provides access to a secure retirement and to adequate and affordable health coverage.

I want to emphasize that my goal is for any individual, regardless of race/ethnicity, religion, sex, national origin, sexual orientation, gender identity, disability status, age, or veteran status, to have access to a good job. Many of the Recovery Act grants we released target underserved groups such as people of color, ex-offenders, women, and veterans. In creating jobs of the future, I will work to ensure that all people from all communities are included.

The Department has laid out 5 high-priority goals in working with the Office of Management and Budget to help us focus our resources and ensure Good Jobs for Everyone. These goals are:

(1) Significantly reduce fatalities resulting from the most common causes by OSHA-covered workplaces and mining sites.

(2) Reduce the number of repeat violators of minimum wage, overtime, and workplace safety laws.

(3) Improve worker rights and livelihoods for vulnerable populations in developing country trading partners.

(4) Create a program to help workers injured on the job return to work so that they can continue to be productive members of America’s workforce.

(5) Increase opportunities for America’s workers to acquire the skills and knowledge to succeed in a knowledge-based economy.

All of these high priority goals are outlined in greater detail in the Department of Labor’s FY2011 budget which was released on Monday, February 1. The challenges facing America’s workers are many. The Department has outlined these high-priority goals to focus our agencies on the most critical needs affecting the safety, health, and economic security of workers. They are of course guided by our broader “Good Jobs for Everyone” vision. In addition these high-priority goals, we have other key initiatives that I know are important to the Committee.

The reauthorization of the Workforce Investment Act (WIA) presents a unique opportunity to promote innovation in the public workforce system, build on its strengths, and address challenges. We can help workers who are unemployed or in low-wage jobs find a path to middle class jobs, providing them with the skills and knowledge they need to succeed in the knowledge economy. We can also help businesses seeking to hire skilled workers and better position them to take advantage of a recovering economy. And we will work closely with our colleagues in the Department of Education to make sure the WIA programs work more seamlessly together to help participants.

Our goals for the reauthorization of the Workforce Investment Act (WIA) include:

(1) Streamlining service delivery—providing easy access and clear information to individuals and employers in need of service;

(2) One-stop shopping for high quality services—one-stop centers should provide access to comprehensive employment and training services across different programs and better utilize technology to improve customer service;

(3) Engaging employers on a regional and sectoral basis—Training programs are often most effective when they are developed on a regional basis reflecting the labor market or on a sectoral basis focusing on a particular industry of the economy;

(4) Improving accountability—Performance measures must be designed to hold programs accountable for better results, without creating incentives to deny services to those most in need of assistance, and results should be made available in a transparent way to all; and

(5) Promoting innovation—WIA should promote the funding of new and creative practices and support the replication of those practices that are successful throughout the workforce system.

We look forward to continuing to work with Congress to reauthorize WIA to improve the workforce system for all.

I have also charged the Department with making our work more transparent to the public. Through our innovative Open Government initiatives, we have made information available to everyone. For example, our FY 2010 proposed budget was made public using innovative web media tools, which allowed for live “web chats” and a question and answer session with me. We released the Semi-Annual Regulatory Agenda using a similar format. My Assistant Secretaries and I were able to engage in live “web chats” with the public regarding DOL’s planned regulatory agenda. Approximately 6,000 members of the public participated in or watched the web chats. In addition, agencies are making their work and the data we collect more transparent. For the first time ever, OSHA is systematically publishing employer-specific information about occupational fatalities on its Web site and making these data available for easy download. It is my goal that the public will be able to access and understand the work we are doing to assist America’s workers.

In the coming year, I am also making a concentrated effort to reach out to diverse audiences. I have met and will continue to meet with leaders of labor unions. At the same time, I am also reaching out to employers, because I know they are the ones who will hire our future workers. Last year, I was the first person from the Administration to speak at the National Association of Manufacturers’ Manufacturing Summit, and I also met with the Black Enterprise 100, a group of the largest companies in the United States owned by African Americans. I, along with Veterans Affairs Secretary Shinseki, addressed the National Chamber Foundation to discuss the employment of veterans. I will continue to reach out to Chambers of Commerce, community-based organizations, and other stakeholders. I am pleased to see that we have already begun to work together. I have seen partnerships among diverse stakeholders in some of the grants we recently released. For example, in Pennsylvania, UAW Local 544 is partnering with Carnegie Mellon University, Veterans Leadership Program of Western Pennsylvania, Thermal Transfer Corporation, and U.S. Steel Corporation to train workers. The Department will continue to support and encourage public-private partnerships, as we all have a role to play in the future of our workers.

Job Creation in 2010

The President and the Administration have renewed our focus on creating jobs. Late last year, I took part in a jobs forum at the White House that brought together small business owners, CEOs, unions, economists, non-profits, and state and local officials to talk about job creation. We are working closely with our partners in the private sector so that we can better generate jobs, growth, and innovation. In moving forward, we know that we need to help small businesses, invest in our country’s infrastructure, and promote growth in our clean energy economy.

In his State of the Union address last week, President Obama outlined the steps that we will be taking together to create more jobs. Specifically, we are calling on Congress to pass a jobs bill with:

- Investments in small businesses including a tax credit to hire new workers or raise wages;

- Investments in road, bridge, rail and port projects; and

- Investments in clean energy, which develop a clean energy economy and a skilled workforce.

Too many Americans are ready, willing and able to work, but cannot find a job. These critical programs will spur private sector job creation. We know that small businesses are often the driver of economic expansion that communities across the country desperately need and the President’s new Small Business Jobs and Wages Tax Credit will reward job creation and the good jobs that pay more. I especially look forward to working with the President and you on new green jobs and high growth industry job training to be sure American workers are ready for these new jobs.

Conclusion

While I came to lead the Department of Labor at a tumultuous and challenging time, I know that we have already made a real difference in the lives of America’s workers and their families. We successfully implemented the Recovery Act and have seen how these investments have saved and created jobs in communities across the country. I look forward to working with you and your colleagues to ensure that there are “Good Jobs for Everyone” and to create new and better jobs for the 21st Century

economy. I thank you for your time and am happy to respond to any questions you might have.

Chairman MILLER. Thank you very much. That is a lot. Thank you. Thank you so much for your testimony. And I think we all recognize that with the election and with the inauguration of this president and your becoming Secretary of Labor, there is a difference in philosophy in this department, and I think it is important.

I personally believe that the department over the last several years prior to your coming to the department was way off course and was failing in its duty to protect workers.

Yes, there is a difference on this committee and in the Congress and probably in the country about the Employee Free Choice Act, but the fact is that 60 percent of the workers that asked if they could have a union now would take it now. But they know that if they ask for a union, they risk being fired, intimidated, followed, losing their overtime, their shift work and all of the rest of that. We will continue that discussion and that debate.

The idea that when the unions went to discuss the impact of the excise tax on their members that they were only talking for their members, no. The fact is that this tax that weighs very heavily on middle-class individuals in this country—I disagree with it. I think the Senate went in the wrong direction.

But the fact is they got vision care and dental care exempted from that for all families, as the unions always do. It is never bargaining about themselves. They bargain for all families, just like when they support the minimum wage. Most of their members don't work at the minimum wage. They do it for the rest of the economy.

They also got the thresholds raised so fewer middle-class families would be impacted in that. And they asked for something that almost every corporation asks for any time we deal with the tax laws of this country. They ask for a transition rule. Could they just take their agreements to 2017 and have a transition, and then have it apply to them so that they can honor their collective bargaining agreements?

The idea that you would now tell those people who have a conflict of interest and a vested interest in investment advice that the idea the only good advice we can give to people is people who have a financial interest in the outcome of that advice, and what have we found in the investigations in this committee? What have we found in investigations on Wall Street?

It is that very often those people with the interest in the advice they are giving are steering investors toward plans that aren't as they are labeled in case of lifecycle funds or plans that are the worst performing, the highest cost. But the entity that they represent, one of the largest mutual funds, wants to move those funds, because nobody else will invest in them if they do their own investigation.

So I think you are quite right. Representing investors when they are making these decisions about their 401(k)s, the complaints we have come from are from the advisors to small businesses, who tell

it they can't decipher that information. That legislation will hopefully move out of the Ways and Means Committee soon.

And also there is disagreement here about project labor agreements. In my area of the country, after votes, city councils and others have endorsed project labor agreements for various projects. The refineries in my district have project labor agreements, and most of those agreements, those projects are on time and in many instances under cost.

And I think that they have delivered the kind of workforce that people need to get those jobs right. So there is that disagreement. That is what elections are about, and that is what different political ideologies are about.

But I think the administration is on the right track in terms of protecting individuals in their health care, in their investments, and in their workplace.

You mentioned the president's interest and your interest in WIA. I am excited that he has asked for competitive grants on innovation, because I really have believed and one of the reasons I haven't moved as quickly on the reauthorization is because I really think we need a new iteration of WIA.

We keep talking about one-stop shopping. We have been talking about it for 30 years. And I think it has to be better, and I think we need to try to get those who are in the field to really think outside the box, come forward with competitive innovation, and see what we can learn from what is going on on the ground. And people who have worked with the system, engaged the system, may be happy or unhappy, but let us see what they propose for us.

Finally, Madam Secretary, before I run out of time here, I want to thank you again on the OSHA work that you have done. This is an area that was neglected. We turned it over to voluntary compliance. We had the tragedy of Texas City, where 15 workers lost their life in the explosion of the British Petroleum refinery, and the fact was that that was covered up.

It went all the way to the boardroom in London, where they made a decision in their most profitable year that they couldn't make the minor adjustments to the process that were necessary to safeguard those workers, and that tragedy happened, and now they have paid \$87 million in fines for that behavior. That will not replace those 15 workers.

Again, mine safety—we had a series of tragedies over the last several years. This committee for a long time refused to even hold hearings on those tragedies to hear from the families. And now I see that we have just completed with much more diligence and inspection, that we have just had an all-time low in mine fatalities in that area of occupation. And I certainly would hope that that that will continue.

And again, I think the rewriting of regulations to make sure that guest worker programs are not taking jobs away from American workers, especially in this very bad economy. A lot of people are finding out that they may take jobs that they would not otherwise take, but they need them to sustain their families. And those jobs should not be taken away through the guest worker program. And I think due diligence there by your department will hopefully pay off for the welfare of those families.

So again, thank you for your testimony. Thank you for your work. And thank you for the adjustment in terms of having the Department of Labor carry out its mandate on behalf of workers in this country and their families.

And with that, I will yield back the balance of my time and recognize Mr. Kline.

Mr. KLINE. Thank you, Mr. Chairman.

And again, thank you, Madam Secretary, for being here and for your testimony.

It is always tempting, when the Chairman speaks, for me to be sucked into reopening the debate on Card Check and PLAs and Davis-Bacon. And I am fighting that temptation. I suspect perhaps other members of the committee are looking forward to having a discussion with the secretary about the impact of some of those policies.

I, however—and by the way, I do want to thank you and the administration's—thank you for your interest in WIA. We have been looking forward to that for some time.

Madam Secretary, I was interested to hear you say that you are putting more troops on the ground. And I hope that some of those troops on the ground go into the Office of Labor Management Standards. I was pleased to see—not as pleased as I would like to have been—but I was pleased to see that in the budget the president has asked to be put back four of the \$6 million that had been slashed out of that little tiny body, that little tiny agency in your department whose job it is to enforce laws.

You said that was an important thing that we have to do. It was an important part of the department's business was enforcement of laws. And that little office, the Office of Labor Management Standards, is the office whose job it is to make sure that rank-and-file union workers are protected from abuses by union bosses.

And we know there are cases across the country of embezzlement. Money has literally been stolen from the accounts, and certainly there have been some cases of abuse in internal union elections. And that office is very important in enforcing the laws.

I have been very upset that the majority party here in Congress slashed money out of the last administration's budget for that, and I am pleased to see that you have put some of that money back in. I hope we are going to put troops on the ground there and take care of that business of enforcing, as well as the others that you mentioned.

Madam Secretary, the president has made it a point on a number of occasions to talk about this administration wanting to be the most transparent and open administration in our nation's history. I am glad to hear that sort of approach. I have some concerns about it, however.

I want to specifically talk about an issue of transparency on union finances. Last year the department—your department—rescinded the final regulations concerning union financial reporting on Form LM-2. As I understand it, the rescinded rule would have increased the information provided by large unions on the Form LM-2 that they are required to file about parties buying or selling union assets and the compensation of union officers and employees

and would have required more detail and itemization in these categories than under the old 2003 rule.

I don't see how that adds to transparency. And clearly, there is less information available now to rank-and-file union members about what their leaders are doing and how their dues are being spent. Can you tell me why the department took that step and explain to me how that has made this more transparent?

Secretary SOLIS. Right. You have some very good questions there, Congressman Kline. I do want to mention to you, too, that with respect to WIA we do want to work on a bipartisan basis, as we have already started on the Senate side.

With respect to disclosure and transparency, I will say that, yes, we have taken a look at the LM-30 provisions there, and we know that that has been in effect since 1963. We believe that what we are looking for is to make sure that we are not overburdening a system where information that was previously asked for may not be of that much importance or significance.

So what we are trying to do, I would say to you, is to provide transparency, but also if there is a need to provide any information, that we will be happy to disclose that information.

I agree with you that we have to strongly enforce our laws, that nobody should be allowed to get away with taking advantage, for example, of their union membership. In fact, I am very happy and delighted that we have been able to see actually an increase in our investigations.

While you report that we have seen a decrease overall in this particular agency, OLMF, we have also seen, I think, more forthrightness on the part of our staff. So we are working leaner, maybe a little bit more efficient and actually investigating more cases that may not have been looked at as seriously.

And I would say to you that what we will try to do in every way we can is to make sure that we follow the rules of law and that we also make sure that we treat these two entities equally, so that we aren't just going after business, but that we are also looking at those unions that are bad actors.

We want to root wherever there is fraud and embezzlement going on out system. And I think that that is what you are going to see coming forward in our new revision of this particular program. So I am very happy about that.

With respect to see T-1 form, I would say that what we are doing there is looking at obtaining that information, but placing it in a form that we already require people to fill out. So it is not as though we are abrogating or trying to decrease or de-emphasize information. I think what we are doing is making it easier for people to report this information.

Mr. KLINE. Well, I certainly hope that we are going to exercise that part of the responsibility out of OLMS, and I would argue that the change rescinding the LM-2 rules has deprived us of information and the rank-and-file union workers of information they really ought to have access to.

Thank you. I yield back.

Chairman MILLER [continuing]. Stay within their time limits—
[Laughter.]

Mr. KLINE. I am with you.

Chairman MILLER [continuing]. Because we have the secretary until right around 11:30. So I don't know if there is going to be votes or not, but if we can do that, we will alternate back and forth.

Mr. Kildee?

Mr. KILDEE. Thank you, Mr. Chairman.

Madam Secretary, you know, when you were sworn in, you inherited a 14-month recession. You were having 690,000 jobs being lost per month. And I am glad it was someone with your intelligence and compassion that has taken over a very, very important Cabinet post in our country.

My city of Flint, Michigan, used to have 80,000 General Motors employees. My dad worked there beginning in 1916. Now it has 8,000—from 80,000 to 8,000. The one good thing that has happened in the auto industry is the Auto Task Force, the so-called auto bailout.

Right now, they are building a new engine plant in Flint. That is great news. They are adding a new truck line. We are still down, way down from where we were. My point is it is very important that the various agencies of government interface with one another. The Department of Labor, I am sure—and maybe as I finish here, you can answer that—how close a relationship do you have with the Auto Task Force, which came up with this?

We could not have built that engine plant. We could not have added a truck line in Flint, Michigan, and add some new jobs without that. So I encourage that the various Cabinet officials, the various department heads and officials, deal with one another.

You know, what we have in Flint right now are people who are unemployed. They lack health insurance. They are defaulting on their mortgages. This is the same person beset with all these problems. They find it difficult to get further education. They are really economic basket cases, and they need, really, almost a package of help from the federal government to get this economy going, not only for them individually, but for the entire economy of the country.

So I am happy that you work closely with the Auto Task Force, because that has created jobs in a city that has close to 20 percent unemployment, with more houses being torn down each year than are being built. So I encourage you, and maybe you can tell us how you interface with the agency like the Auto Task Force, which has saved General Motors, probably Chrysler—and by the way the accelerators work well on those cars. [Laughter.]

Secretary SOLIS. Thank you, Mr. Kildee. It is good to see you. And having served with you on this committee, I know how deeply concerned you are about trying to provide assistance for those in your district, but in your state and the entire automobile industry that has just gone through a devastating process.

And I am delighted that the president stepped forward to create this automobile industry task force that really takes a different approach, and one a model that has been used very effectively when I know we looked at the Defense Department closures of bases. We are using that—what they call a BRAC approach, so to speak—where we involve other agencies like the Environmental Protection Agency, the Department of Energy, Commerce, SBA, Treasury, and

other entities that are now meeting on a regular basis through the auspices of Dr. Ed Montgomery, who is leading that particular task force.

He is housed in the Department of Labor, and we have assigned staff to work with him. He has spent, I would say, I want to say anywhere from 15 to 20, maybe more meetings on a regular basis where he is out in the field in Ohio, in Michigan, in Indiana and other places that have been hard-hit by the devastating job loss.

One of the——

Mr. KILDEE. Give him my personal thanks, because he has done a wondrous job in Flint, and I really appreciate——

Secretary SOLIS. And I want to tell you that in the Recovery Act funding through our competitive grant process, of the \$500 million that we were able to obtain through your good work and your assistance, \$50 million have been set aside for the automobile industry regions that are hardest hit. So we have been rolling some of that out.

But more importantly, we are really trying to connect the dots here. So if Department of Energy has a grant that potentially can provide for investments in, say, lithium, the creation of lithium batteries, which was just released, then we want to see that we are making those connections in the right region, so that those displaced autoworkers might be able to then be drawn back, immediately identified, skilled up to be ready for these orders that are going to be coming in.

I was happy to be with you and other members of the Michigan delegation at the auto convention that went on just a few weeks ago, and I was delighted to see how many of our American automakers are now looking at long-term investments and very pleased that the Recovery Act moneys have been made available so that more infusion of dollars can go in so that they can start beginning to identify where those high technological areas are and make sure on our part that the Department of Labor is following suit, that we have the right training workforce there.

The biggest threat I think we have is if we do not do something now. And we will lose that very core group of very well trained individuals, who are highly skilled, that can be trained, and those skills can be transferred into new technologies, into hybrid vehicles, into hydrogen vehicles, into different types of sources that will help reduce our dependency on foreign oil, make us more competitive, and have those cars built, sold and designed here by our American work force.

So that is something that is of great concern on the part of our department, as well as this administration.

Mr. KILDEE. Thank you, Madam Secretary.

Mr. CASTLE. Thank you, Mr. Chairman.

Madam Secretary, referring back to the stimulus bill or the Recovery Act, we know that there are a lot of questions about the counting of jobs. And both the CBO and the General Accounting Office have raised some issues about that. But I have another question about the accounting for the jobs.

As I understand what has happened with the money from that bill so far, a lot of it has gone to the various states to help with programs all the way from Medicaid to other programs. And a lot

of that has gone for various projects, almost a capital bond to build type thing, roads and things of that nature.

Regardless of the count, whether it is accurate or not, is anyone looking at how many of these jobs are permanent?

My impression from talking to people is that when the funding for the states or local jurisdictions is over for the particular time period, which is about expiring in the case of most governments at this time, there will not be money to keep those employees on, and a lot of the work that was created, let us say putting in an extra lane on a highway or something of that nature, was something that was done for 3 months, and then there is no record of whether those employees stayed on at that point, and they go back into the unemployment.

My point is I don't know if this has really created many permanent jobs. And I was wondering if anyone is tracking those jobs. After the reporting is done and that there are so many jobs created, is anyone tracking to see if those same jobs exist a month, 2 months, 3 months, 6 months later?

Secretary SOLIS. Congressman Castle, that is a very good question, and I think that it is almost twofold, because I have seen where there have been projects that have a certain time completion date, so if you build a bridge or road, there will be a certain length of time for that project to be completed.

Thereafter, if there are other projects or incentives, I would say that that certainly would be something that we would want to consider. But in some cases, you are right. There may be short-term employment.

But at the same time, the project that I visited, for example, last week in Ohio, the \$400 million to go into a high-speed rail is going to be something that is going to be extended over the course of, obviously, a longer time than the ARRA funds are made available. So I know that, for example, the planning that is going into that rail system will go on for years.

And then when you think about the other investments that the locales, the local cities, are making to help provide for that extension of the rail passenger system as well as freight, that means more opportunities for businesses to be attracted in these hub areas.

They are trying to look at designing, for example, building up smart growth areas so that you have a combination of metro centers where people can easily get around to colleges, universities, convention centers, and then all of the subsidiary businesses that will offshoot because of the clients and people that will be attracted to those places.

So in a way I understand what your point is, but I think this is something that I will certainly bring back to the Middle Class Task Force that is now headed by the vice president, because it is a valid point. But I also know that there are some very positive outcomes that are coming from these investments that we are making right now in infrastructure in particular. There is probably a little bit more apparent than some of these other areas that you might have mentioned.

Mr. CASTLE. I wish you hadn't mentioned the high-speed rail, since I am very concerned about the Northeast corridor, which is

virtually ignored by the high-speed rail funding. It is something that I still haven't figured out why, since it is the most populous part of the country. But that is another discussion for another day, and I won't ask you questions about that.

I do want to ask a question, though, about—and there may not be exact correlation on these dates—but I know that at the end of last year, there were economic gains, apparently, in our country. I think it was around 5 percent. I don't know if it was quarterly or just December. And I also know that we have continued to lose jobs, but at a lesser rate than we did before.

That is sort of a surprise to me. It would seem to me if we have economic gains, you would start to see a greater turnaround in terms of jobs being created. Is anyone looking at the connection of those two economic reporting aspects to see why, when there is economic gain, the jobs aren't necessarily coming back? And what should we be doing as the Congress or as executive branch or government to try to make sure that the jobs are being supplied as well?

Secretary SOLIS. Good question, Congressman. I also think that a part of the recovery effort was to look at helping to stabilize that job loss and making some very, very strategic decisions on where we need to go in terms of helping to restructure our manufacturing base.

We have really lost hold in the manufacturing arena. That has been happening for the last decade. And I think making investments in new technologies, in green energy, biofuels, creation of better and more high-speed systems of transportation is going to help us in the long run. But we have to be competitive and make sure that we have an appropriate workforce to deal with that.

What I see happening every month—and I have to report on the unemployment figures—is that we have seen a drop-off in construction and manufacturing. There is no doubt about that. Those have been the hardest hit areas.

But I do continue to see because of the stimulus program and the incentives that are being made available, that some businesses now are going back and looking and reassessing their inventory and actually restocking. So that is where you saw the growth this last month, the 5.7 percent in GDP.

So there still is somewhat a reluctance on some businesses to move ahead and hire, to go the full step in hiring more people. But I will tell you that the figures I have to report on, there is a higher number of temporary workers that have come back into the system. But it is no longer the temporary worker that most people would think about. It is a consultant. It is an architect. It is someone who is dealing in IT and someone who has a much vaster range of experiences that are being brought back on board.

I think once confidences is regained and the business community feels that there is going to be more credit available and more of these investments being made in the energy technology and the whole proposal about renewable energy, that they start to see these practical efforts on our part, then businesses will make those investments.

And every time I travel, I see that people are asking when is the federal government going to move on cap and trade, and moving so

that we have the right signals to make those investments for 5 and 10 years down the line. No businessperson is going to want to make an investment for 2 years based on just a Recovery Act program. They are going to want to see what their return is going to be in the next 10 and 20 years.

Mr. CASTLE. Thank you, Madam Secretary.

I yield back.

Chairman MILLER. Mr. Payne?

Mr. PAYNE. Thank you very much.

It is really great to see you again. And let me thank you for inviting members of this committee over to your office several months ago. I think it was the first time that I have ever had that extended to me. And secondly, I think it was so important that you had Job Corps young folks there who prepared the food. I think that you have done an outstanding job with opening your office, and it is great to have you here.

I would like also to thank the Department of Labor. In my congressional district, we received a \$5 million grant for Union County College in my district that created—it is for the creation of green jobs. And it has made a great big difference there for young people who are seeking alternative jobs. And I would like to thank you for that.

And also the Summer Youth Employment—we had over 4,000 young people from New Jersey worked this summer, and I just wondered quickly do you expect to have Summer Youth Employment this year in your budget so that we could at least duplicate last year or even expand it? Will there be Summer Youth Employment in your budget?

Secretary SOLIS. Thank you, Congressman Payne. Yes, we are looking at proposing an increase in the Summer Youth Employment program. We actually, through the ARRA funds, projected that we would see about 150,000 youngsters in that program actually receive this benefit and this training experience. We were very surprised that we had well over 317,000 participants.

The need is so great, I have to tell you. Governors and mayors have done an outstanding job in their own way to help expand these programs. And certainly, that has been one of the more successful parts of the ARRA funding that I can be able to say proudly that has really worked on the ground.

I visited Puerto Rico recently a couple of months ago and actually saw young people, 14, 16 years of age, that were hired to do conservation along the coast of Puerto Rico in some very nice areas,—pristine, but students were getting information on biology, looking at other dynamics in terms of how to keep that ecosystem alive.

And, of course, it is a big tourist industry there, so making sure that preserving and conserving property and the value that that means I think helps to instill in many of these young people, who may not even have an opportunity to get a job—the unemployment rate in Puerto Rico is well up above 40 and 50 percent, and even higher for young people—but just as an aside, the summer youth program itself has really helped, I think, to not just help that student continue to feel a sense of discipline and respect because they earn a paycheck, but many in this hard economic time have shared

with us that that check goes straight to their parents to pay for that utility bill, to pay for additional rent, or for maybe a little bit more clothing to go to school.

Mr. PAYNE. Thank you. I couldn't agree with you more, and I think the ARRA program has, you know, created or saved over two million jobs. The House just passed, you know, the second jobs bill that would certainly help teachers and firefighters and policemen and create health jobs, and so I would like to really also commend the president, who has laid out, you know, an aggressive job creating agenda.

I would hope that we could finally get support, you know, from some of the members on the other side, you know, as we move forward. We recall there was attempt to even years ago block the minimum wage increase, which hadn't been increased in 10 years, and, of course, the opposition to the free union organizing bills and, of course, the exodus of jobs overseas. We have not seen anything in those years to try to prevent that from happening. But hopefully, those days are over.

I do have a question about the wage theft. There is a Sodexo company I am not sure if you are familiar with, but there have been some serious allegations about their practices that have disallowed a number of issues. And I would just like to bring that to your attention, and hopefully your office can look into that. I will give you some very specifics, but I would be happy to share that with some of the information I received from SEIU. It is a food service company, and there are some very bad allegations.

Let me ask the last question about—before my time expires—the Job Corps program. Is there a way to go out to recruit more at Job Corps people? I know you are going to help, you know, to deal with the facilities, but I understand the Job Corps is not totally up to the number of slots that are available. Are you doing anything aggressively to try to increase the number of recruits?

Chairman MILLER. Answer this quickly.

Secretary SOLIS. That is a lot of good questions, but I will be happy to work with you personally and your staff.

With respect to Job Corps, yes, there was a reduction, but what I think I am being tested to do now is to evaluate, to really look at those programs that are effective, come up with some innovation there as well.

And we are looking now to identify our director for Job Corps. We put it back in the secretary's level in our ETA administration, so it no longer stands out by itself, so we can integrate the other services, the core services that we offer through our other agencies. And that is really important, because we can draw on more expertise and more resources to help Job Corps.

It is a very important program, one that the president feels very strongly about, and I do. And we want to work with this committee and, of course, our appropriators on seeing how we can fix any problems.

Chairman MILLER. Mrs. Biggert?

Mrs. BIGGERT. Thank you, Mr. Chairman.

Madam Secretary, it is great to see you here in your new role. You know, many of my constituents have lost their jobs during this recession, and they found new positions that don't really fit their

skill set or pay significantly less than their previous job. And I think this is happening all over the country. In fact, the national underemployment rate is 17.3 percent, nearly a fifth of the adult population.

So what is the president and what are you doing to help the underemployed find secure, good paying jobs? And some of them just have never found a job at all, and they are kind of off the record.

Secretary SOLIS. Congresswoman, as I have traveled throughout the country, I have heard from many individuals who have advanced degrees, people who worked in the financial industry who lost their jobs, people who are very high skilled. And because our market has shrunk, because there has been a restructuring in that particular area, we know that we are going to be tested to see about coming up with more creative opportunities in partnership with our community colleges, with our 4-year universities, and again, looking at where we could see potential growth.

So, for example, health careers—I mentioned that earlier as a potential area for people to kind of—I don't want to say reinvent themselves, but as a potential area of job growth and something that actually can help provide them with better pay and more stability.

That is something that is going to keep growing out, as well as in the medical field in terms of IT and other things that have been brought forward by the Congress that will actually provide more opportunities.

But you are right. We have to do a better job in WIA. We have to have more focus on diagnosing what the job skills of that particular individual is.

Mrs. BIGGERT. Do expect that the president is committed to pass the WIA bill this year?

Secretary SOLIS. Absolutely. And as I outlined, we want to do this on a bipartisan level. Our staff has already begun work with the Senate committee on a bipartisan level, and we also want to—when asked appropriately by this committee, to also do likewise.

Mrs. BIGGERT. You know, one of my community—or universities, I should say, just has a new proposal to have a woman empowerment and training for them so that they can, you know, be at the top of their skill set. The problem, though, is, you know, it costs money, and somebody that is really out of a job doesn't have the wherewithal to, you know, to pay for the education. And if they have a job with a lower skill level, they are working all the time and don't have the opportunity to do that. It just seems like it is a catch-22.

And one of the things that is another thing that has happened in my community—I went to visit a business. And they just received as a subcontractor a wonderful, you know, proposal or purchase order, if they can fulfill it. And this company has, you know, gone through what most of the companies are doing. They laid off 60 of their employees, who they could bring back on this.

The problem is that they need to upgrade a couple of their machines at a high cost. And because of the economic downturn, they, you know, they don't have the funds to do that right now, but they could bring the people back. If they could just get these machines,

it is all ready for them. And they go to the bank, you know, the credit is not there.

And what are we going to do when they—you know, the corporate taxes that they pay, and they can't get the bank loans, and it is really it is the businesses that create the jobs. And so many of them don't have the ability to do that. And what we should be doing is providing tools, but what can we do in that kind of a situation?

Secretary SOLIS. I think you describe something that I have confronted out in the field as well, the fact that people that are unemployed are challenged, because they are looking for a job, or if they have a job that underpays them, they can't really take time off to go fit into a job training program.

But for those people that are unemployed, I would encourage them to contact our one-stop centers and find out what job training opportunities are available, most of which are free.

This new incentive to provide Pell grants for people that have lost their jobs while they are collecting unemployment insurance is also another extension, a kind of another lift-up to get more of the more advanced training that they may need short-term. And those are transferable, obviously, for a 4-year and a 2-year community college.

Mrs. BIGGERT. Well, what can employers do? Are you thinking of the corporate tax structure? Is that going to change, help with making sure that they can get credit?

Secretary SOLIS. I think that the president looking, and I know the House has some proposals, and the Senate is now going through theirs, to see how we could readily make available more tax credits and to incentivize small businesses in particular to go that extra step to keep someone on longer hours, given that tax break, but also to bring more people on.

So that is a big priority—and using also some sources of funding to get through our commercial banks, who tend to have, I think, a better record of providing those loans to businesses. So I think opening up different opportunities in that way can certainly help. But we have a long ways to go, and look forward to working with yourself and others who have ideas to do that.

Mrs. BIGGERT. Thank you.

Yield back.

Chairman MILLER. Just reiterate what Mrs. Biggert said. I think all of us in our communities find the access to credit. I hope this new proposal by the president to put \$30 billion in front of the banks will help the banks loan, but it has been a dry season on lending for small businesses.

Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman.

Madam Secretary, historically it has been the case that whatever we do, good or bad, eventually we are going to recover from the recession. So our challenge is to try to put people to work as soon as possible so that the recession will be as short as possible and as painless as possible.

One of the challenges we have as we go through this is—as quick as we can stimulate the economy on one side. State budgets have been cut, I understand, about \$300 billion after we invested about

\$140 billion in state governments. So the first \$450 billion worth of recovery just went to offset what the states were cutting off.

My question is in just whatever kind of jobs, temporary or otherwise, and all construction jobs are temporary—I mean, if you build a bridge, you complete the bridge; it is over. Build a school. When the school is complete, the job is over. You go on to the next job.

Do you have any idea how much it would just cost to hire back many of the people that have been laid off? I understand it is up to about seven million have lost their jobs so far. How much would it cost to get three million of them back to work short-term?

Secretary SOLIS. Well, I don't have an accurate figure, but I know that our council is in the White House, and our task force that is looking at jobs is looking at different proposals.

And the president did outline that he knows that there is a great need to have a jobs bill package put on his desk as soon as possible, because we are seeing a continuing number of people that are now exhausting their unemployment benefits, but also more importantly, making sure that we can keep either people on the job, and part of it is through tax credits for small businesses to extend that time that they can stay on, and hopefully increase their wages. This is going to take a bipartisan effort and approach to get through.

Mr. SCOTT. But just in terms of the cost, we understand from what our friends on the Transportation Infrastructure Committee have said, if we spend \$40 billion in infrastructure, we can get a million people working. Is that accurate?

Secretary SOLIS. You know, I would have to get back to you on the actual amount.

Mr. SCOTT. And we have had a lot of other jobs that people are waiting for. I mean, in my district you have got infrastructure, you have got military ship repairs that are being deferred, research grants, summer jobs, youth programs—I mean, a lot of things that you can get somebody to work for a relatively small cost. Has your office gone through a list of opportunities where for the lowest cost we can get the most jobs?

Secretary SOLIS. We are working, as I said, with the president's Cabinet, those that are more involved directly with coming up with the job package proposal. And those discussions are ongoing now.

That also is taking place while we see the Congress—you have already moved to put forward a jobs package, and we see the Senate also working to come up with something. And it is going to be a challenge to try to get all these forces working together to make these jobs more available and immediate, so—

Mr. SCOTT. Do you have an idea of what size in terms of money—what size package we need to get people back to work?

Secretary SOLIS. Well, the president says that in his proposal he is looking at \$100 billion to start with, and I am sure that as we work this through with your leadership and the Congress and in the Senate, that there will be other opportunities to hear new ideas and other programs that might work better.

I know that there are several proposals that are being talked about. But I am probably not the only or the best person to respond to all of that, because much of it is happening internally with White House staff.

Mr. SCOTT. One of the long-term challenges we have is in health care to make sure that there is sufficient personnel in the health care industry, if we can ever get a health care bill passed so that everybody has access to the system. What is the Department of Labor doing to ensure that there will be sufficient personnel in the future to meet the health care needs of our nation?

Secretary SOLIS. Well, this has been something of great concern to me in the last few years just overall, but our department is going to be issuing \$220 million for job training in health careers. So that will be going out in a matter of weeks. And that is just, I think, a start, beginning of where we need to go. And I know that there is much, much concern.

There has actually been an over subscription. We received hundreds—hundreds—of applications so that people could obtain these particular grants, partnerships that work with hospital associations, with clinics, with the community colleges and 4-year institutions. They are oversubscribed. We don't have nearly enough money to make those all complete. I would hope that that is something that Congress and the Senate might entertain.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. PRICE. Thank you, Mr. Chairman.

Madam Secretary, welcome.

Secretary SOLIS. How are you?

Mr. PRICE. We know that you have a difficult job and remarkable challenges, and we look forward to working together positively to get to the root cause of the decrease in jobs and move forward.

Our chairman talks about a celebration of a change in philosophy once this new administration came in. Many of us have concern, because we believe that that change in philosophy is to punish the job creators across this nation. And that gives us a great pause.

The chairman also stated that the non-stimulus bill that passed, the success of it was “undeniable. Most Americans, I think, would dispute that. And the question that they are asking is, “Where are the jobs?” Where are the jobs?

Before the \$787 billion non-stimulus bill, the president said that if it wasn't passed, then unemployment would go to 8 percent. And in fact, the 787 boondoggle was indeed passed, and now unemployment sits at 10 percent or more. And again, the American people want to know where are the jobs? Where are the jobs?

If you look at the jobs that have been “created”—these are from the Bureau of Labor Statistics itself—since January of 2009 through December of 2009, total private employment, private-sector employment, down 3 percent, loss of 3.3 million jobs. Total federal government employment up 1.3 percent.

I think it gets to one of the concerns that the gentleman from Delaware asked about whether or not these were permanent jobs at all and whether in fact they were jobs in the private sector.

As you have stated, as the president has stated, as everybody knows, the small businesses of this land are the job engine, the job creation engine of our nation. So I would ask what do you believe—what does the department believe to be the single biggest important factor in allowing small businesses to create jobs?

Secretary SOLIS. First of all, I do want to say that this last quarter there was a report that mentions that there were over 640,000

jobs that were either saved or were created through the Recovery Act. And we also know that we were able to preserve jobs for teachers and for law enforcement officers. Many states benefited from—both Republican and Democrat—well over 200,000 jobs in construction and clean energy, 300,000 jobs—

Mr. PRICE. Madam Secretary, if I may, and my time is very limited and the chairman won't allow me to go over the red light, so the question is what do you believe is the most important factor in the creation of jobs in the small business arena?

Secretary SOLIS. I think that the president's proposal to provide I believe it is \$30 billion for the small business lending fund to targeted communities and smaller banks will help provide what we have heard here discussed today, the fact that there isn't enough credit made available for small businesses—

Mr. PRICE. So capital is the most—

Secretary SOLIS. That is part of it, but I also think that investments that we have already started through the Department of Energy, transportation infrastructure, new innovative technologies that will create better hybrid vehicles, for example, lithium batteries, solar panel industry—we can see that there has been an increase in job growth there.

Mr. PRICE. Madam Secretary?

Secretary SOLIS. I think that will help us put people back to work.

Mr. PRICE. Many of us believe that the engine for job creation is on the private side, not on the public side, so that the answers that I continually hear, that we continually hear coming out of the administration and out of your department, it requires bigger and greater and stronger and more intervention of government to create jobs.

And many of us just simply don't believe that—in fact, believe that our nation's history is, and the vibrancy of our history demonstrates, that it is indeed the private sector.

When I talk to folks back home about what it is that creates jobs and why they aren't being able to hire right now, one of the big concerns that I hear from them is the uncertainty because of the intervention or threat of intervention of the federal government.

So in the area of health care, the reports that are out that dictate—and I know that you scoff at this—they have health care. If the health care bill were passed, 5.7 million jobs would be lost. If the cap and trade bill were passed, millions of American jobs would be lost. If the Card Check bill were passed, millions of jobs would be lost.

And those are high-quality individuals, who look at our economy and try to determine what it would take to get the economy rolling again and get jobs created again.

So I would hope that at a time when we we are currying favor with the union community and currying favor with those who believe that larger government, bigger government, greater intervention of government is the secret to job creation, that we also look at the true job creators across this land, which are the small businesses, and try to decrease the burden on them, whether it is through decreasing taxes—we have the second highest taxation in the world, industrialized world, for businesses—decreasing regula-

tion that oppress the job creators, and making litigation an environment that is much more comfortable for folks to be able to start businesses. I thank you.

Secretary SOLIS. I think the irony there, Congressman Price, is that many of the proposals that you talk about have not even been voted upon yet. So we don't have a complete picture of what those proposals will be.

But I do believe in the health care reform proposal that we do see, that there will be a reduction in costs. And that is really where I think the president has tried to move us along to realize that we need to drive down those costs. People are going bankrupt, businesses are going bankrupt, because they can't keep up with those payments that continue to go up at a very higher rate than employment and wages.

So I think that we have to tackle this problem in different ways. But certainly I know we want to work very closely with businesses. We don't create jobs. Businesses create jobs.

Mr. PRICE. Thank you.

Secretary SOLIS. So we need to work in a very whole school environment that respects both the worker and the employer.

Mr. PRICE. Thank you.

Ms. WOOLSEY. Thank you.

Thank you for being here, Secretary Solis. It is wonderful to know how much you know. What a complement you are to your position.

Wherever I go in my district, really, or around the country, and anybody is talking about jobs and about wages and anything that has to do with the workforce, which is what everybody is talking about—it is the most important thing in our country—I always hear something like, “Well, lucky us, we have a change in the Department of Labor, and they are doing a lot for us.”

And I think that that feels really good, because people know the difference. They actually recognize that when Barack Obama was sworn in in January, the job losses per month were 741,000, and then in November of this year—too many, of course, and you said so—85,000. But what a difference. And people recognize that.

But one more thing they recognize, and this is just I want you to know that. They always use your name when they say, “We have a different Department of Labor, and Hilda Solis is going to take care of us.” The workers in this country know you. They trust you. They respect you. And it is making a big difference in how they feel about what we—all of us—can do for them.

So now I want to change the subject. I know I had to compliment you, because you are doing such a good job.

In your testimony about reviewing the department's commitments to workplace safety, I wanted to follow up on that, because the first priority of the Workforce Protection Subcommittee is securing passage of H.R. 2067, the Protecting America's Worker Act, because we want to make the needed improvements in the Occupational Safety and Health to actually bring it into the 21st century. And we want to know how we can help you to do that.

But in the meantime we want to let you know—I want you to know how impressed we are that you have done so much with the

October issuing of a fine of over \$87 million to BP for the—that is the largest fine in the history of OSHA. It is about time.

You have hired more than a hundred inspectors, as well as 25 new investigators for the Department of Labor's whistleblower program. And you have improved oversight over the 26 states that operate their own OSHA plans, which is very necessary.

I would like you to, if you can, to tell us where the department is going to go from here. Highlight some of what the plans are for 2010, 2011. And I would like to know whether that 2011 budget, the president's budget, actually supports this positive momentum.

Secretary SOLIS. Thank you, Congresswoman Woolsey, for your words of encouragement. And I also want to commend you for your hard work on this issue on protecting workers and creating a safer environment overall. I know you have been a great advocate, and I know that you have. Your priority is to continue to work with, I believe, us, with this administration, to see how we can really make these programs more effective—and to be honest, programs that are going to be more transparent.

And I can tell you that back in 2009 when OSHA issued one of the largest fines in history, a penalty of more than \$87 million that was discussed earlier by our chairman, I think, really helps to provide that kind of confidence and support that people out in the field need to know that we are taking our job very seriously.

In the past I would say that OSHA probably was not as due diligent in terms of going out and really seeking and investigating and following suit. Thanks to your help and folks on this committee and other committees that help us increase the penalties to send a message.

Of course, this is a small drop in the bucket for someone like BP, but it does send, I think, a message to the industry overall that we want to provide assistance. We also want to let them know that we are available to give them technical help so that we can prevent injuries and loss of life. Nobody should have to go into a workplace knowing that they may not be able to come home at night because of an injury or fatality. And it is something that our new OSHA brand is trying to bring to the table.

And, of course, we want to work with all local groups on the ground. We also want to work with small businesses and provide continued support and assistance. I want to tell you this budget 2011, we are not in my opinion going to see a dramatic decrease in our enforcement, because we are barely coming up to par where we should have been at 2001 levels. So we are trying to go back to where it should have been.

But it is still not nearly enough. But I will say that it is enough at least to begin to at least look at those more egregious cases and hopefully work with industry so that we can prevent any of these injuries, because any injury is a cost for everyone, and unfortunately for families that lose loved ones, I think it is even more painful.

And we have to do a better job of prevention and information. So we are doing outreach campaigns. We are going to be presenting a program in Houston, Texas, to look at injuries in the construction industry and service sector and really targeting these—for example, immigrant populations have the highest incidence of fatalities

on construction jobs—to help provide the tools with industry, working in partnership with other offices and local government to see how we can better prepare those businesses, industries, but also the employees so that they know what training has to take place to prevent any of these illnesses and injuries on the job.

Chairman MILLER. You have been very generous with your time. If you will just bear with us a little bit longer, I would like to recognize two additional members on each side. But those members will be recognized for 3 minutes. Those members can decide if they want to talk for 3 minutes or ask a question or whatever they want to do. But that will allow at least four other members of the committee to have opportunity to put their remarks the record, if that is all right with you. So we will hold to the red light.

So we are going to begin with Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

Thank you, Madam Secretary.

Madam Secretary, in my home state of Pennsylvania this past summer, there were plans for a renovation project for the Rockview State Correctional Institution, and Benner Township granted the state project. And the Pennsylvania Department of General Services opened the project for bids this past June, but it made it subject to a project labor agreement.

It turns out this kept a few hundred firms in the region from bidding on the project, and the bids ended up coming in so high that General Services and the governor were forced to scrap the solicitation. This project was subsequently put on the back burner, because the PLA could not be carried out.

Similarly, last September the Department of Labor issued a solicitation for construction of a Job Corps Center in New Hampshire that the department declared is urgently needed. But then without explanation, the department attempted to impose a project labor agreement on the project, which would require all successful bidders to force their employees to work under a union contract, even though more than 90 percent of the workers in New Hampshire are non-union. And after a small local business filed a protest against the PLA, the department canceled the solicitation—again, without sufficient explanation.

My question is simple. Why did the department cancel the entire solicitation of an urgently needed, as determined by the department, project in the face of the bid protest instead of simply removing the PLA?

Secretary SOLIS. Thank you, Congressman.

With respect to project labor agreements, I find that in many instances they have actually helped to reduce costs. And while they require collaboration on the part of the developer or a private entity and a union, I think that what this has at least given me evidence to feel that these are appropriate things that we should be looking for is to keep costs down—

Mr. THOMPSON. Well—

Secretary SOLIS [continuing]. To keep jobs locally to make sure that those jobs pay well and that those jobs benefit those individuals from that particular area.

Mr. THOMPSON. If I can reclaim my time, I appreciate that, but, you know, you know, I mean, it is job creation, though, union or not, you would agree that is really is what the goal is.

Secretary SOLIS. I would say overall, making sure that we can keep costs down. The taxpayers' costs, especially if they are funded by the government, is first and foremost very important.

I think the chairman even mentioned that there are projects in our state in California where these project labor agreements have been very successful efforts to complete before the time that they were supposed to be completed, but also have managed to keep costs down.

There is more predictability put in place when you have project labor agreements, when people could come to the table and understand ahead of time that labor disputes can be minimized, that there won't be any work stoppages, and that people will be hired from the local area.

Mr. THOMPSON. And I certainly support keeping costs down. The two situations—one is a state example, but the other is a federal issue—it seems like we have canceled those projects versus allowing local contractors, non through PLAs, which may be able to provide local jobs and keeping those costs down.

And I am out of time, and I thank you, Mr. Chairman.

Chairman MILLER. Mr. Thompson, if you—if Mr. Thompson—Secretary SOLIS. Yes, we would be happy to respond to you.

Mr. THOMPSON. Secretary, I appreciate that. Thank you.

Secretary SOLIS. Thank you. Thank you.

Chairman MILLER. Mr. Hinojosa?

Mr. HINOJOSA. Chairman Miller, thank you for inviting the distinguished Labor Secretary, Hilda Solis, to join us today.

Madam Secretary, welcome. It is great to see you and to hear your enthusiasm and passion for the Department of Labor, as you fight every day to strengthen our nation's economy and our workforce.

In the past year you have given the Department of Labor a renewed vision and purpose so that American workers can acquire good jobs to feed and sustain their families. This is particularly true in the high-growth emerging sectors of our economy. And I commend you and President Obama for investing and supporting American workers and our economy.

In Texas the Recovery Act of 2009 has created and saved thousands of jobs in many sectors, including teachers, firefighters, health care jobs, and many others, and provided much-needed training and employment services to adults, dislocated workers, and youth.

We have very little time, so I ask that you please allow me to ask my two questions before you respond.

We start—rather, we understand that your list of priorities for WIA includes the need to streamline our workforce investment boards as well as devote more of their resources to effect workforce training programs, particularly for workers who have been displaced, who are unemployed, or lack the basic literacy and workplace skills to access good jobs.

Recently, the caucus sent you a letter, which I have in my hand, underscoring the need to reauthorize WIA. What are your thoughts on these issues?

And my second question is at the last congressional session we held a series of congressional hearings in Washington, D.C., and Michigan and Nevada on issues related to WIA in 2009. During these sessions, witnesses expressed the need for greater coordination and collaboration between the Department of Labor and Department of Education.

Do you support the development of a stronger and more formal relationship between the two departments to facilitate the implementation of policies that strengthen our adult education and workforce training systems?

Secretary SOLIS. Thank you, Congressman Hinojosa. You have been a leader on this issue, and I know we have had various discussions about the thoroughness of your sessions that you have held throughout the country.

I want to tell you that one of the first things I did as a new Cabinet member was to call together my own internal task force to make sure that we make WIA reauthorization a priority. And it is a priority for this administration.

We have held over 20 listening sessions, and many of the sessions that I have held in the Department of Labor have been with community colleges, have been with manufacturers, have been with secondary and post-secondary institutions, as well as nontraditional groups that also can be involved and a part of these partnerships. In fact, we were able to include some of those new entities in the grant-making that we just provided over the last few months in these new partnerships.

And I am really going to be looking very strongly at evaluating these programs to see what we can learn from them and hopefully include them as part of our process in developing the WIA reauthorization language. As we have started in the Senate, this is a bipartisan effort. We want to do the same thing here. You have called upon me, Mr. Chairman, for assistance and for technical help. We will be happy to provide that. My assistant secretary is here with me today for ETA, Jane Oates, who I believe you met. We are ready to work with you.

Secretary SOLIS. Yes.

Mr. HINOJOSA. Thank you, Mr. Chairman.

I ask unanimous consent that the tri-caucus letter dated January 27, 2010, be included in the record of today's hearing.

Chairman MILLER. Without objection. Hearing none, so ordered.
[The information follows:]

U.S. CONGRESS,
Washington, DC, January 27, 2010.

Hon. HILDA SOLIS, *Secretary,*
U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC.

SECRETARY HILDA SOLIS: Thank you for your leadership in fighting for the needs of our nation's working men and women. As our nation works to rebuild our economy, create jobs, and increase global competitiveness, it is imperative that the Obama administration prioritize the reauthorization of the Workforce Investment Act (WIA) during this session of Congress. We want to underscore the urgency of debating this issue and passing legislation in both Houses early in this session.

As you know, in some parts of the country, local jurisdictions are experiencing record unemployment levels. This is especially true in low-income neighborhoods. In

fact, minority and low-income communities were confronted with economic challenges long before this current crisis began. A reauthorization of WIA would allow us to strengthen our nation's public workforce development and adult education system to better address the needs of workers, particularly those who have been displaced or lack the basic literacy or workplace skills to access jobs in emerging and high-growth sectors of our economy. As we look to prepare the workforce of the future, we rely on WIA as a framework to prepare these workers for living-wage jobs and career ladders to the middle class.

A new vision for WIA can serve to increase collaborations among education, labor, business, and the nonprofit sector, improve and integrate education and workplace training, and ensure that our public workforce development and adult education system encourages career pathways that lead to family-sustaining wages. A new vision for WIA could create incentives to businesses to improve employee skills and stimulate economic growth.

We look forward to working with you on this issue in the coming months. We cannot afford to neglect the millions of displaced, unemployed, or underemployed workers who are looking to the administration and Congress for leadership on this issue.

Respectfully,

BARBARA LEE, *Chair,*
Congressional Black Caucus.

NYDIA VELÁZQUEZ, *Chair,*
Congressional Hispanic Caucus.

MIKE HONDA, *Chair,*
Congressional Asian American Pacific Caucus.

RAÚL GRIJALVA, *Chair,*
CHC Education Task Force.

DALE E. KILDEE, *Chair,*
Native American Caucus.

ROBERT C. "BOBBY" SCOTT, *Co-Chair,*
CBC Education Subcommittee.

RUBÉN HINOJOSA, *Chair,*
Subcommittee on Higher Education, Lifelong Learning and Competitiveness.

CHAKA FATTAH, *Co-Chair,*
CBC Education Subcommittee.

DAVID WU, *Chair,*
CAPAC Education Task Force.

DANNY K. DAVIS, *Co-Chair,*
CBC Community Reinvestment Task Force

EDDIE BERNICE JOHNSON, *Co-Chair,*
CBC Community Reinvestment Task Force.

JUDY CHU, *Chair,*
CAPAC Economic Development Taskforce.

Chairman MILLER. Mr. Roe?

Mr. ROE. Thank you, Mr. Chairman.

Having been a small businessperson for over 30 years, I bring some experience to the table, having never worked. This is my only government job, is the one I have now here. Between 2000 and 2009, we had a decade of no growth for private sector jobs, so the same of people employed now that were in 2000 except in the government sector, in which there are 1.7 more million people.

You are hiring. You are going to hire more OSHA inspectors and so forth. But small businesses are not hiring. Why aren't they hiring? Well, I am not every weekend that I am home talking to small business. It is real simple. It occurs across the country.

Number one, they don't know what the go forward costs are going to be. They don't know what Card Check is going to cost them. They don't know what that health care costs are going to be. They don't know what those costs are, and the carbon tax. They

don't know what their costs there are going to be. So if they had that knowledge, they might hire someone.

Number two, the access to capital just isn't there. I don't care what people are saying on Main Street—I mean, on Wall Street—but down on Main Street, it isn't happening. What is going on with the local community banks are the FDIC inspectors are coming in, looking at loans that are being paid right now—I mean, no problem, they are not behind—and they are re-evaluating that property, causing the capital requirements for those banks to go up, and they can't make loans.

And so no matter what the administration says, out in the real world they can't borrow money. So without knowing those things, they are not going to hire people. I talk to business people every day that are struggling to keep the people working that they have right now.

And I will give you an example of our bigger business. Eastman Chemical Company, which hires 9,500 people in my district, are extremely worried about their go forward costs in the carbon tax, so they are not hiring people. They are trying to keep their workers working.

And on OSHA, I would just simply implore you to please not make them an organization that is going in with a boot on the neck. And let me give you a real quick example in my own office. We give our drugs the way at the end of the month to a clinic that is a homeless clinic. We put the drugs in a red bag instead of a clear bag, and that was an \$1,800 fine from OSHA. No good deed goes unpunished.

We didn't have a letter in our file about a protecting needle on a needle we do amniocentesis with, which is to draw fluid from around the baby. That was a \$1,700 fine. I am asking, do you have quotas that these people have to meet when they come by our offices and to our businesses? That didn't protect anybody.

Now, what BP did, absolutely. I think that probably did. But many small businesses have these onerous government regulations that they can't meet that add to the cost of business. And I don't know whether you see it where you are, but I see it every day. I have experienced it. So I will stop and let you answer.

Secretary SOLIS. Thank you. You raise a very interesting point, because what we have seen also the Department of Labor is that we have not kept pace with the growth of businesses overall in terms of how we are supposed to be monitoring and helping to evaluate and provide assistance to small business.

So in our attempt to hire up more investigators, I don't want it to seem or appear that it is just punitive, because what we are also trying to do is get at the fact that many of our small businesses, many new upstart businesses, many immigrant-owned businesses that have also helped to restore our economy, need the additional tools and information provided to them so they know how to run their business appropriately without creating more injuries or fines, and working with them.

So I think you are going to see a different attempt on our part, whether it is Wage and Hour or OSHA, to really work with our small businesses, to have partnerships with them and try to develop more of a—how could I say—communicative atmosphere.

That may not have been there in the past, the way that would include also the safety and protection of workers, because that is first and foremost one of our primary goals is.

Small business, very important to anything that we do in terms of succeeding, providing tax credits to them to hire up more or to extend hours for workers, very important proposals, and also helping businesses keep their employees on board. When you lose an employee for 6 or 12 months, you lose a valuable training part of your potential business. It is hard to bring that back, so we know the importance of focusing in on efforts and programs that might be able to address that.

Mr. ROE. Thank you.

Mr. Chairman, is it possible that the secretary could come back because, obviously, we have a lot more to discuss? At some time, could she be invited back?

Chairman MILLER. We will see what we can do.

Mr. ROE. Thank you.

Chairman MILLER. Mrs. McCarthy?

Mrs. MCCARTHY. Thank you, Mr. Chairman.

I thank you, Secretary Solis, for being here. Number one, let me first say that I certainly as a New York representative appreciate the over \$700 million that has come into New York State. We still have a long way to go. There are no two ways about it.

But I don't think anybody is talking about if we hadn't done anything where would the state of the economy be today? How many more workers would be actually out of work today? And I think it would be something that we would all be trying to dig up for a much longer period of time.

You had mentioned a number of times on health care—I happen to think that is certainly an area that is going to expand—we see that, you know, obviously, a lot of seniors now are starting to age out. We are starting to see constantly that a lot more patients want to stay home in their home instead of going to a nursing home, which basically ends up certainly being less expensive and better for the patient, in my opinion.

Last week, January 29th, the New York Times ran an article that highlighted a Supreme Court case that just came through that a home health care aide was denied overtime and time-and-a-half for her work. Now, spending many years doing homecare also and working with nurses' aides, you know, their title by law is a companion. These particular nurses' aides are more than a companion. They are doing just about everything you would be doing in a hospital on the floor. And I am hoping that we can work together to really clear up that particular wording.

As we are going to go forward and people will want to go into the health care, especially on entry-level, and hopefully they will go forward to nursing or other health care jobs, that we can work it out. It is just terrible that these people work 12, sometimes 16 hours a day, and they are not even getting a federal wage. I think that is wrong.

The other thing, too, that I knew—I want to bring this in—with the money that came into New York for the multiple clean energy grants, something we need to think about. The majority of schools in this country are old. They all have flat roofs. If you want to

bring jobs into clean energy into all of our areas and save taxpayers money, we need to think about putting solar panels, refitting, retooling our schools. I know the average cost of heating a school here in the Northeast is anywhere from \$15,000 to \$20,000 a month. That is a big investment that we could put in. Thank you.

Chairman MILLER. Madam Secretary, thank you so much for your time and responding to the members of the—

I am sorry. You have 10 seconds left. Did you want to respond to Mrs. McCarthy?

Secretary SOLIS. Thank you, Congresswoman McCarthy. I know of your outstanding work in the area of the health field arena, and I just want to reiterate that we are now going to be releasing our \$220 million for jobs in health careers, something that I know, like you, you understand this is going to be a growth area.

But we need to talk about the protection and safety of the individuals who are now employed in this area and underemployed and need to make sure that we have protections in the workplace for them. So I would be happy to work with you, provide any technical assistance that my staff can provide to you on this matter. But it is front and center on my agenda.

Chairman MILLER. Secretary, thank you again for your time and for responding to the questions of our members. I am sure there are members who will want to submit questions to you, as you know. If you would respond to those, we would appreciate it. Mr. Thompson had a specific couple of examples that he would ask that you address, and we would appreciate it if you would do that.

Thank you to the members. I am sorry for those who did not get an opportunity, but I think we timed this about right, because I understand we are now going to have five votes, and the secretary has other commitments.

So thank you.

Mr. Kline, did you have anything?

Mr. KLINE. Just to say thank you to the secretary for being here today and for addressing our concerns. And I want to add my voice to that of Dr. Roe. We would love to have you back, and I will keep appealing to the chairman to make sure that invitation is always extended. Thank you.

Chairman MILLER. Thank you.

Without objection, members will have 14 days to submit additional materials or questions for the hearing record. And the hearing is adjourned. Thank you.

[The statement of Associated Builders and Contractors, submitted by Mr. Kline, follows:]

Statement for the Record of Associated Builders and Contractors

Associated Builders and Contractors (ABC) appreciates the opportunity to submit the following statement for the official record.

We would like to thank the Committee Chairman, George Miller and Ranking Member, John Kline, as well as the members of the House Committee on Education and Labor for holding today's hearing "Strengthening the Economy and Improving the Lives of American Workers."

ABC is a national construction industry trade association representing more than 25,000 merit shop contractors, subcontractors, materials suppliers and construction-related firms within a network of 77 chapters throughout the United States and Guam. ABC member contractors employ more than 2.5 million skilled construction workers, whose training, skills, and experience span all of the twenty-plus skilled

trades that comprise the construction industry. Moreover, the vast majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. This philosophy is based on the principles of full and open competition unfettered by the government, nondiscrimination based on labor affiliation, and the award of construction contracts to the lowest responsible bidder through open and competitive bidding. This process assures that taxpayers and consumers will receive the most for their construction dollar.

We would like to take this opportunity to bring to the Committee's attention several policies currently supported by the Administration that are stifling job growth in the construction industry and harming employees of the industry.

Union-Only Project Labor Agreements

President Obama's Executive Order 13502, signed February 6, 2009, encourages federal agencies and recipients of federal assistance to attach union-only requirements, known as project labor agreements (PLAs), to all construction projects exceeding \$25 million. The order also repealed the Bush Executive Order 13202, which protected hundreds of billions of federal and federally funded construction projects from being subject to government mandated union-only PLA requirements since 2001. This Executive Order effectively forbids the over 85 percent of private construction who is not affiliated with organized labor from working on federal projects. Projects that are funded by their own tax dollars!

Equal opportunity and open competition in federal contracting is a critical issue to consider as the federal government explores various solutions, including significant infrastructure spending, to stimulate our ailing economy. Congress must ensure federal and federally funded infrastructure projects paid for by taxpayers are procured in a manner that is free from favoritism and discrimination while efficiently spending federal tax dollars. These interests would not be served if the Federal government were to require union-only requirements, commonly known as union-only PLAs, on federal construction projects.

A union-only PLA is a contract that requires a construction project to be awarded to contractors and subcontractors that agree to: recognize unions as the representatives of their employees on that jobsite; use the union hiring hall to obtain workers; pay union wages and benefits; obtain apprentices through union apprenticeship programs; and obey the union's restrictive work rules, job classifications and arbitration procedures.

Construction contracts subject to union-only PLAs almost always are awarded exclusively to unionized contractors and their all-union workforces. According to the most recent data from the U.S. Department of Labor's Bureau of Labor Statistics, only 14.5 percent of America's construction workforce belongs to a union. This means union-only PLAs would discriminate against more than eight out of 10 construction workers who otherwise would be eligible to work on construction projects if not for a union-only PLA.

This discrimination is particularly harmful to women and minority-owned construction businesses—whose workers traditionally have been under-represented in unions, mainly due to artificial and societal barriers in union membership and union apprenticeship and training programs. In fact, the National Black Chamber of Commerce, Women Construction Owners and Executives and National Association of Small Disadvantaged Businesses have all come out in opposition to mandating PLAs on federal projects.

In addition, construction projects subject to union-only PLAs stifle competition from nonunion contractors and take away opportunity from their non-union employees unless they agree to the "union friendly" and inefficient terms and conditions of a typical PLA. A union-only PLA is a contract that requires a construction project to be awarded to contractors and subcontractors that agree to: recognize unions as the representatives of their employees on that jobsite; use the union hiring hall to obtain workers; obtain apprentices through union apprenticeship programs; and obey the union's restrictive work rules. While non-union contractors are permitted to bid on PLA projects, the reality is the contracts subject to PLAs end up being awarded almost exclusively to unionized contractors and their all-union workforces.

Moreover, several academic studies by the Beacon Hill Institute indicate PLAs increase the cost of school construction between 10 percent and 20 percent when compared to similar school construction projects not subject to a PLA. America can't afford to waste in excess of \$30 billion in construction spending contained in the stimulus bill to reward special interests. Why should we build four schools, bridges, hospitals and wind farms for the price of five? That money is better served rebuilding America's crumbling infrastructure and putting all construction workers, not just union workers, back to work.

ABC fully supports the “Government Neutrality in Contracting Act,” (H.R. 983) introduced by Congressman John Sullivan which would protect taxpayers and ensure fair and open competition on government construction contracts by prohibiting government mandated union-only project labor agreements on federal and federally funded construction projects. ABC urges members of the Committee to add their names as cosponsors to this important piece of legislation.

It is the duty of those elected to Congress to ensure taxpayer funded projects are cost-effective and administered without favoritism or discrimination. These interests will not be served under President Obama’s Executive Order 13502.

Davis-Bacon Act Expansion

Since the beginning of the 110th Congress we have seen a dramatic increase in the expansion of the arcane Davis-Bacon Act into areas of law where it has never before been seen. The Davis-Bacon Act is a Depression-era wage subsidy law enacted in 1931. In the 21st Century, especially in the new competitive global economy, it is essential to allow the free market system to determine wages.

Mandating Davis-Bacon Act prevailing wage requirements adversely affects small business access to construction performed under the program in which it is attached and inflates the costs of projects at the expense of the taxpayer. Moreover, reports consistently indicate Davis-Bacon wage rates are inaccurate and vulnerable to fraud.

Davis-Bacon has a negative impact on equal access to work opportunities. It prevents many qualified small and nonunion businesses from even bidding on publicly funded projects, because the complexities and inefficiencies in the Act make it nearly impossible for them to compete. This has a disproportionate impact on minority-owned businesses, which tend to be smaller and nonunion companies. The toll is real: one study estimates Davis-Bacon reduces the number of minority workers in the construction industry by 25,000 each year. In fact, a recent study released by The Heritage Foundation reports that by suspending the Davis-Bacon Act 160,000 new jobs would be created in the construction industry.

In addition, Davis-Bacon’s flaws will cost taxpayers more to provide less. Davis-Bacon has been shown to increase public construction costs by anywhere from 5 to 38 percent above what the project would have cost in the private sector. According to the Congressional Budget Office (CBO), the Davis-Bacon Act already costs taxpayers more than \$9.5 billion over the 2002 to 2011 period relative to the 2001 appropriations and \$10.5 billion relative to 2001 appropriations adjusted for inflation. A more recent estimate, from the Beacon Hill Institute at Suffolk University in January, suggests Davis-Bacon costs taxpayers \$8.6 billion per year.

Finally, federal authorities have concluded that Davis-Bacon wage rates are inaccurate. A series of audits by outside agencies, as well as the Department of Labor’s (DOL) own Office of Inspector General (OIG), have revealed substantial inaccuracies in Davis-Bacon Act wage determinations and suggested that they are vulnerable to fraud. In fact, DOL’s OIG released three reports highly critical of the wage determination program, with one report from 2004 finding errors in nearly 100 percent of the wage surveys reviewed. Expanding a wage determination process that has been proven to be flawed is unfair to the American taxpayer and American businesses.

Davis-Bacon’s wage determination flaws harm the very employees the law was intended to protect. Research from The Heritage Foundation found that if it were not market forces, Tampa Bay area electricians would be “underpaid” by 38 percent under Davis-Bacon’s system when compared to the more statistically sound wage determination method used by the Bureau of Labor Statistics (BLS). Recent academic research found that Davis-Bacon wages were substantially lower than BLS figures in 16 urban areas across the nation.

Moreover, the “American Recovery and Reinvestment Act of 2009” (ARRA) took the unprecedented step of requiring Davis-Bacon Act prevailing wages to be used on the entire project if \$1 or more of ARRA funding is used on the project. The inclusion of this mandate has created serious confusion on projects funded fully or in part by stimulus monies. In fact, some shovel ready projects have become un-shovel ready due to the Davis-Bacon Act being mandated on the project. For example, if a project is bid and the work is set to begin as soon as funding is procured and \$2,000 or more of project funding comes from the ARRA the entire project would have to be re-bid taking into account Davis-Bacon wage rates for that project. Thus, a shovel ready project would automatically become un-shovel ready because the entire bidding process would have to begin from scratch. This flies in the face of the intended purpose the “American Recovery and Reinvestment Act of 2009”, putting workers back to work immediately. Congress acted without taking into account the ramifications of mandating Davis-Bacon Act prevailing wages on stimulus funding.

ABC calls on Congress to reform the Davis-Bacon Act and immediately halt its expansion into areas of the law where it has never before been used.

Green Jobs Training Funds

ABC member companies have been leaders in green construction since before this terminology came into fashion. In fact, ABC has been at the forefront of the green building movement since its inception. ABC member SIGAL Construction was a founding member of the U.S. Green Building Council (USGBC) as well as one of the authors of the Leadership in Energy and Environmental Design (LEED) rating system. ABC members continue leading the construction industry by utilizing sustainable construction methods and practices. According to Engineering News-Record in 2008, 53 of the Top 100 Green Contractors were ABC members generating close to \$15 billion in revenue with more than 2,800 LEED APs on staff.

ABC chapters and member companies are actively engaged in training workers in a wide variety of skilled occupations and are constantly striving to keep pace with technology and innovation in order to make certain America has the skilled workforce it deserves, and that all American workers, regardless of union affiliation, enjoy equal opportunity of access to critical job training. However, the continued participation of open shop contractors, and the job opportunities for over 85 percent of the construction workforce they employ, in the booming green building market is threatened by the efforts of many in Washington, D.C. to exclude non-union companies and training providers from participating in new government funded green jobs training programs.

The Green Jobs Act, enacted as part of the “Energy Independence and Security Act of 2007” which was signed into law in December 2007, establishes National Energy Training Partnership Grants to fund training programs targeted at creating an efficient energy and renewable energy skilled workforce. Specifically, the Green Jobs Act would require any entity applying for these grants to partner with organized labor. The reality is that this language would bar the numerous open shop training programs from receiving this grant funding.

Organized labor makes up just 14.5 percent of the private construction workforce and likely represents a similar amount of work in the green building market. Given the desire to see a continued increase in the use of green building and green technology, it seems that limiting the ability to participate in green training to such a small percentage of the construction industry would make this growth difficult. If the green building market is going to continue to expand in the coming years as some groups predict, the participation of the open shop will be a crucial factor in ensuring there are enough skilled workers to meet the demand.

To that end, ABC, along with many other construction and business groups, strongly supports the “Green Jobs Improvement Act” (H.R. 2026) introduced in the U.S. House of Representatives by Congressman John Kline which would amend the Workforce Investment Act to allow both union and open shop training providers access to the federally funded energy efficiency and renewable energy worker training programs. This bill would give all workers the opportunity to train in the ever increasing field of green construction and would not block certain training providers access simply because they choose not to be affiliated with organized labor.

The advances in the technology and skill involved in green building, and the benefits of their use, is indeed a welcome trend for contractors, skilled workers and the end user. It is our view that the most efficient path to encouraging this continued growth of this sector is by giving all training providers, regardless of union affiliation, access to federal training programs so that the greatest numbers of workers can be trained in green jobs. In today’s tough economic times, especially in the construction industry, Members of Congress have a responsibility to provide all workers with training opportunities paid for by their tax dollars.

ABC looks forward to your continued efforts to promote green building opportunities for all contractors.

Employee Free Choice Act

Passage of the misnamed “Employee Free Choice Act” would effectively rob American workers of their right to a private ballot election overseen by the National Labor Relations Board (NLRB) when deciding whether or not to join a union. It would replace the secret ballot with a scheme called “card check” where workers are forced to vote in public—inviting coercion, intimidation and abuse in the workplace.

Federal courts have repeatedly ruled that secret ballot elections are the preferred method of ascertaining union support from employees. In a brief to the Ninth Circuit Court of Appeals, the NLRB stated, “Congress and the Supreme Court regard a secret ballot election conducted under the Board’s auspices as the preferred meth-

od for resolving representational disputes in the manner that best ensures employees free and informed choice.”

The bill also contains an unconstitutional infringement on a private employer’s right to contract. It provides that if an employer and a union engaged in their first collective bargaining agreement are unable to reach agreement within 90 days, then either party may refer the dispute to the federal government. The federal government would then have the authority to impose binding contract terms on the employer, the union and ultimately on the employees that would last two years, further denying the employees the right to vote to approve their contract. This two year binding contract sets economic terms such as wages, benefits, and work rules.

The key provisions in this legislation represent egregious attempts to limit the rights of employees and employers and will severely diminish the ability of U.S. business to succeed in our globally competitive market. Particularly at a time of economic uncertainty, Congress should not enact measures that threaten our economic competitiveness. Furthermore, this legislation would have a particularly devastating impact on small employers who are the primary source for new jobs in our economy.

The economic hardships facing our nation have acutely impacted the construction industry. Our industry has seen historic highs in job losses over the last year, with over 53,000 of the 85,000 jobs lost in December 2009 coming from our industry, and nearly 1 million jobs lost in 2009. The construction industry can not shoulder the additional burden this legislation would impose.

A recent study by Dr. Anne Layne-Farrar, a highly regarded economist from the non-partisan firm LECG Consulting, titled “An Empirical Assessment of the Employee Free Choice Act: The Economic Implications,” finds that if this legislation were signed into law it would likely increase the unemployment rate and decrease job creation substantially. In fact, Dr. Layne-Farrar predicts that the “Employee Free Choice Act” being signed into law will cost the U.S. economy 600,000 lost jobs the year after it is enacted. This is not what the construction industry needs in this time of massive layoffs and economic unrest.

As the unemployment rate is climbing and construction jobs are disappearing, the “Employee Free Act Choice Act” will only further aggravate the economy and make these trying times worse. For all of these reasons, we urge Congress to oppose the misnamed “Employee Free Choice Act” in all forms.

Defunding of the Office of Labor-Management Standards (OLMS)

Established in 1959 to protect the rights of American union workers, it has been placed on the chopping block, despite its successful oversight of organized labor, which has led to a crackdown on unscrupulous union leaders.

OLMS statistics speak volumes about how frequent and widespread union corruption has been in recent years. Since 2001 the agency has obtained more than 900 convictions for union financial improprieties and recovered more than \$91.5 million in restitution.

Despite the agency’s successes, in May 2009, Secretary of Labor Solis unveiled drastic cuts to the annual budget for OLMS. The Department’s allocation for OLMS will total \$40,557,000—a reduction of 10 percent (down \$4,381,000) from the 2009 level. The \$40.5 million allocated for OLMS reduces the agency’s budget to the lowest level in six years.

At a time when the public and Congress are calling for greater transparency and accountability for all institutions, including corporations, lobbyists and members of Congress, cutting the budget of OLMS will only serve to benefit union bosses at the expense of hard-working, dues-paying union members.

Again, thank you for holding today’s hearing and we hope that by raising these concerns your Committee will work to alleviate the issues outlined above so that the construction industry can continue building America.

[Members’ questions submitted and the responses follow:]

Questions Submitted and Their Responses From Secretary Solis

Rep. Joe Sestak

1. Madam Secretary, last October I introduced H.R. 3930 which extended COBRA Premium Subsidy from the Economic Stimulus bill to June of 2010. As you know, Congress followed by passing a two month extension of the COBRA Premium Subsidy. As your Department is responsible for dispersing the funds for that program, can you please update me on how disbursement is proceeding—especially for those Americans who temporarily saw their premium subsidy lapse in December? We have had serious difficulty locating raw data on the total number of beneficiaries

from the extended program. Specifically, how many Americans have received premium assistance under the extended program that would not have received assistance if we had allowed the premium to expire at the end of December? Also, does your Department have projections on the anticipated number of beneficiaries that would receive premium assistance if extended COBRA premium assistance was extended 6 months as my legislation proposes and the House Jobs bill proposes?

Answer: The Department of Labor Employee Benefits Security Administration (EBSA) is proud of our role in implementing the ARRA COBRA premium subsidy program. Our specific responsibilities are discussed below. The COBRA subsidy itself is distributed through a tax credit, which is administered by the Department of Treasury/IRS. The only public information regarding the numbers of Americans taking advantage of the program is provided by the IRS. GAO published a report in early February 2010, which states that, "as of December 26, 2009, IRS had received approximately 192,000 returns from employers claiming about \$803 million in COBRA credits." (GAO-10-349: Recovery Act: IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed, Appendix IV, <http://www.gao.gov/new.items/d10349.pdf>). As discussed in the report, these numbers are not final yet, and also the number of beneficiaries is not yet available.

It should be noted that on June 3, 2010, the Secretary of the Treasury submitted to Congress an interim report detailing these numbers as required by ARRA section 3001(a)(11), which also requires a final report.

The Department of Labor's responsibilities under the COBRA premium assistance program include providing an appeals procedure for workers whose claims for the subsidy have been denied by their former employer or who otherwise need assistance in obtaining the benefit, publishing model notices, publishing compliance guidance to assist employers, educating workers about the program, and conducting outreach activities. EBSA has:

- Published model notices, publications, videos, fact sheets, posters and other guidance to educate employers and workers about the program, most of which are also available in Spanish.
- Conducted compliance webcasts and seminars for plan sponsors and their service providers.
- Launched a dedicated website that as of May 3, 2010 has hosted over 2.9 million visitors and has over 64,000 subscribers. This website contains educational materials for employers and participants (and their families) and provides participants the ability to submit their appeals electronically or print out a copy of the application.
- As of May 3, 2010, closed over 18,000 appeals through the procedure it established for workers whose requests for the premium subsidy were denied. Over 99% of these determinations have been issued within 15 business days.
- As of May 3, 2010, EBSA benefits advisors have responded to over 219,000 COBRA subsidy inquiries.
- From February 2009 through March 31, 2010, EBSA has conducted 1,017 outreach events to educate individuals on the COBRA Premium Subsidy that reached 34,341 individuals.

a. Following up on that question, Madam Secretary, would you support extending traditional COBRA coverage for involuntarily terminated workers from 18 to 24 months, which was a provision I included in my bills H.R. 694 the COBRA Coverage Extension Act of 2009, and H.R. 3930 the Extended COBRA Continuation Protection Act of 2009? Would you support extending COBRA coverage until the implementation of the health insurance exchange, as proposed in the House-passed health care reform legislation and championed by my colleague Rep. Susan Davis? Would you support extending COBRA for those approaching Medicare eligibility?

Answer: COBRA makes it possible for millions of unemployed workers and their families to keep their health benefit coverage. The Administration is focused on its efforts to help participants in processing claims and supports the extension of the COBRA premium subsidy program through the end of this calendar year.

The Administration has no position on the other proposals to extend COBRA eligibility that you have mentioned.

2. Madam Secretary, as you know, Americans 55 and over now make up 19 percent of our workforce, and in December 2009 the unemployment rate for men aged 55 and over hit an all time high. What efforts are the Department undertaking to help older Americans find work during our economic recovery?

Answer: While the unemployment rate is not as high as for some other demographic groups, older workers tend to remain unemployed longer and have more difficulty in securing reemployment. The Department of Labor recognizes the need to address issues related to helping older Americans secure employment. Through a

network of approximately 3,000 One-Stop Career Centers nationwide, Americans 55 and older are served by One-Stop Career Center programs that provide employment, training, and other supportive services. While not all programs specifically target older workers, older workers may receive services through the Workforce Investment Act of 1998 (WIA) Adult and Dislocated Worker programs, Wagner-Peyser, Trade Adjustment Assistance Act, Unemployment Insurance and other partner programs.

The Senior Community Service and Employment Program (SCSEP) specifically targets Americans 55 and older. This program was established to provide income and training services to low-income seniors through part-time, community-service paid training opportunities at non-profits or government agencies. Participants are paid the highest of the Federal, state, or local minimum wage. To be eligible for SCSEP participation, an individual must be unemployed, 55 years of age or older, and have an income that is no more than 125 percent of the Federal poverty level. Note that 125 percent of the poverty guidelines for a family of one is currently calculated at \$13,538.

Congress appropriated this program an additional \$225 million in FY 2010 to provide SCSEP services to thousands of additional unemployed low income seniors. The Department obligated this additional funding on January 29, 2010 to 40 states and 17 national grantees. This infusion of funds is in addition to \$120 million in Recovery Act funding awarded in February, 2009 and annual Appropriations for this program. The Department projects these resources will serve approximately 100,000 seniors in Program Year (PY) 2009 (July 1, 2009—June 30, 2010), and approximately 120,000 in PY 2010 (July 1, 2010—June 30, 2011).

As part of the Trade Adjustment Assistance program, the Reemployment Trade Adjustment Assistance (RTAA) targets workers 50 and older. RTAA offers time-limited wage supplements equal to 50% of the difference between the current and prior wage rate, up to a \$12,000 maximum over the two-year eligibility period. This approach encourages workers who may have a higher reservation wage to return to work and serves as a buffer period to help workers adjust to lower wages in new industries/jobs. As the economy recovers, these workers' wage rates will likely increase.

3. Madam Secretary, what adjustments will your Department pursue to make One-Stop Career Centers more responsive to older workers seeking services? Currently, these centers are evaluated based on their placement rate as well as the salary the newly placed worker receives as compared to their previous salary. As many older workers are looking for part-time work, which is likely to result in a lower salary, there is currently a disincentive for One-Stop Career Centers to help older Americans looking for work.

Answer: The Department is committed to a public workforce system that is responsive to the needs of all job seekers, including older workers. Older workers workforce needs range considerably: many are employed in full-time jobs and many others prefer part-time employment. In 2004, the Department released a Protocol for Serving Older Workers that presented a set of action steps that key stakeholders continue to use in achieving the goal of connecting older workers to employment and trainings services. Since 2004, the number of older workers participating in the Workforce Investment Act (WIA) Adult program and in the WIA Dislocated Worker program has increased each year. In the most recent program year for which we have data (Program Year 2008), over 140,000 older workers were served by WIA Adult and Dislocated Worker programs, which is an increase from previous program years. As we move forward, we hope to further minimize the disincentives encountered by the workforce system in serving older workers and other hard to serve populations.

One approach to minimizing disincentives is the use of regression-based methodology as an alternative to annual incremental increases. This method provides a systematic, transparent, and objective method to set and administer WIA performance targets. By adjusting or controlling for the characteristics of participants served at the state and local levels, the regression-adjusted targets encourage workforce system providers to more extensively serve populations with significant barriers to employment. ETA issued Training and Employment Notice No. 48-09 on June 14, 2010, entitled: Pilot and Implementation of a Regression-based Method for Performance Target Setting for the Public Workforce System, to inform the public workforce system about the pilot project to test a regression-based method for performance target setting at the national, state, and local Workforce Investment Board (WIBV) levels for WIA title I programs, which includes WIA Adult and Dislocated Worker programs.

Rep. Judy Chu

1. As Chair of the California's State Board of Equalization, I led a task force against the underground economy and I plan on continuing the work here on the federal level. A recent report was released called "Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers." It is a shocking report that lends credence to the work our task force was doing to help low-wage workers.

Since you've come on board you've really put labor enforcement right on track by hiring over 250 new investigators after significant cuts during the Bush Administration. However, one of the public policy recommendations from the report suggests that the federal oversight move towards a proactive "investigation-driven" enforcement in low-wage industries rather than reacting to complaints.

Rather than highly-publicized immigration raids, I'd like to see strategic, repeated and highly-publicized workplace inspections that would discourage employers from abusing their employees.

It would help people like Rosa, who worked for a hotel in the San Fernando Valley as a room cleaner. She was paid \$8.00 an hour for a forty-hour week, with a company check. No violations were apparent on her check stub, but in fact she was required to work much more than forty hours a week. She had to come in half an hour before her shift officially began to prepare her supply cart, and completing her assignments typically required more than eight hours of work. In addition, Rosa was a regular victim of tip stealing.

Rose didn't complain about the tip stealing, but she did ask her supervisor why she was not getting paid for all the hours she worked. First, they told her that she was not supposed to be paid for her meal breaks. But her unpaid time was much more than thirty minutes a day, so later she asked about it again. This time the supervisor told her, "Don't worry, you don't have to come in to work tomorrow." Later she figured out she had been fired for daring to complain.

a. Can you tell me if this type of "investigation-driven" enforcement is in your 2011 agenda and if you have the resources to properly implement it?

Answer: Over the last several years, as resources diminished, the Wage and Hour Division's (WHD) ability to conduct "directed" or "targeted" investigations of employers also decreased. In 1992, over 30 percent of the investigations that WHD conducted were self-initiated, i.e., "directed," by the agency. In 2008, that percentage had dropped to 24 percent as WHD offices struggled to deal with increasing complaint backlogs. "Directed" investigations are agency-initiated investigations typically of employers in industries in which the data suggest employees are subject to minimum wage and overtime violations and are reluctant to complain when their rights are violated. The industries include many of those cited in the "Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers"—e.g., garment manufacturing, residential construction, janitorial, and the car wash industries. Industries with higher risk of violations will vary by region. Consequently, in addition to a national focus on the janitorial and construction industries, WHD regional and district offices will develop similar "investigation-driven" enforcement plans in 2011, as they did in 2010, to address such industries within their geographic jurisdictions.

With the additional resources provided in the agency's FY 2009 and FY 2010 appropriations, WHD has increased its enforcement staff by over 250 new investigators, bringing the agency back to levels comparable to those in the late 1990s. With these resources, WHD expects to conduct more "directed" investigations in FY 2011 while still maintaining the important function of responding to workers who seek our assistance in resolving their complaints of wage violations. These directed investigations will be full investigations of employers' compliance with all the applicable labor standards laws for which WHD has responsibility, so that we can both detect and deter violations while in the employers' workplaces.

b. What type of professional development training can you give to your current investigators to move in this direction?

Answer: New WHD investigators complete a Basic I Investigator Training, which is an intensive three-week training on the investigative process and the application of the Fair Labor Standards Act. Prior to this Basic I classroom training, these new investigators undergo a comprehensive 12-week pre-training curriculum and put in a minimum of three months of on-the-job training. Approximately one year after they complete Basic I training, new investigators undergo Basic II Investigator Training to develop their skills and knowledge base in some of the more complex wage and hour issues and statutes.

As WHD undertakes initiatives in various low-wage industries, investigators will be retrained to identify and address the most common types of violations. WHD has

already begun retraining its existing field staff in the compliance principles of certain statutory programs that were infrequently investigated during the last several years, including the Davis-Bacon and related Act, the Service Contract Act, and Section 14(c) of the Fair Labor Standards Act. WHD has also begun training investigators to enforce its newly delegated responsibility for the Immigration and Nationality Act's (INA) H-2B program. Investigators are also receiving training in the new regulatory provisions of the INA's H-2A program. With the wealth of independent research on the nature of violations that affect low-wage and vulnerable workers in certain industries, WHD investigators will be better trained than in the past to identify and remedy violations and to secure future compliance from employers found in violation.

c. What efforts have you taken to target employers who operate in the "underground economy"?

Answer: In addition to a number of local enforcement initiatives in industries such as garment manufacturing and car washes, WHD has launched an unprecedented effort to ensure labor law compliance on Recovery Act funded projects. WHD is coupling these enforcement activities with a public outreach effort to directly reach workers in a wide range of occupations.

In March 2010, the Department launched a national public awareness campaign entitled "We Can Help" to inform workers about their rights. The campaign, in multiple languages, targets worker populations and industries in which workers are reluctant to report violations, e.g., many of the workers in the "underground economy." The goal of the campaign is to reduce the perceived risk of filing a complaint with WHD. WHD is using this comprehensive public awareness campaign to inform workers and the public at large that WHD is available to assist workers with workplace violations, that WHD enforces the applicable laws regardless of a worker's immigration status, and that complaints are kept confidential to the fullest extent allowable under the law. Components of the campaign include the use of television and radio Public Service Announcements (PSAs) in English and Spanish; print publications, such as posters, banners, displays, booklets and bookmarks, billboards; and a workers' rights video for continuous loop play in such places as consulate offices, day laborer drop-in centers, health clinics, English as a Second Language programs, and employment fairs.

2. The Labor Budget highlights a new focus on individuals wrongly classified as independent contractors who are denied access to critical benefits and protections that they would be entitled to as a regular employee. It generates a substantial loss to the Treasury, Social Security, Medicare and Unemployment Insurance trust funds. To address this problem the FY 2011 Budget includes a joint Labor-Treasury initiative to strengthen and coordinate Federal and State efforts to enforce, identify and deter misclassification of employees as independent contractors.

Example in report: In October 2008, a court-appointed official awarded more than 200 Federal Express drivers in California \$14.4 million in compensation for their illegal misclassification as "independent contractors." Prior to their success in court, their lack of employee status meant that they had received no benefits, had been denied the protection of most employment and labor laws, and had been forced to pay out of pocket for job-related expenses such as fuel, vehicle maintenance, uniforms, and insurance. Critics argue that the new budget initiative could stifle an economic recovery by denying job opportunities to millions of self-employed workers, from bicycle messengers to freelance journalists to computer technical support. The use of independent contractors is pervasive in industries such as construction and homebuilding as well as increasingly among high-tech firms.

a. I would like to applaud your efforts in the FY2011 Budget to include resources for a joint Labor-Treasury initiative to strengthen enforcement, identification and hopefully deter misclassification of employees as independent contractors. Why is misclassification so important to federal revenue?

Answer: Employees misclassified as independent contractors do not receive the benefits and protections to which they are entitled, and employers may evade taxes otherwise due to the Treasury. A number of recent studies conducted by the Employment Training Administration (ETA), various States, and worker protection organizations suggest that independent contractor misclassification—while occurring in many industries—is prevalent in several high-risk industries. In an August 2009 report, the Government Accountability Office (GAO) noted that the precise extent of misclassification is unknown, but studies suggest that it may affect 10 to 30 percent of firms and result in significant tax avoidance.

Moreover, classification of workers as either employees or independent contractors affects how various taxing authorities consider the worker's compensation for tax

purposes. The impact to the Federal revenue stream is different for different tax programs—not every tax is affected equally.

For example, when a worker is misclassified as an independent contractor, the net effect for Federal income tax results from that reliance on individual filing by independent contractors is less reliable than the tax withholding system. The independent contractor is required to pay income tax on his or her net income from the business, just as an employee pays income tax on his or her wages. Social Security and Medicare taxes are similarly impacted. Independent contractors are responsible for the entire Social Security tax, whereas employees have one-half of the tax withheld, with the employer paying the other one half.

Misclassification has a significant impact on the Unemployment Insurance (UI) program. The revenues generated from Federal Unemployment Tax Act (FUTA) taxes and state unemployment taxes, both of which flow into the Federal Unemployment Trust Fund, are part of the Federal unified budget. When a worker is misclassified, both FUTA taxes and state unemployment taxes are not collected because the worker is considered self-employed and generally ineligible to receive unemployment insurance benefits.

For workers earning at least \$7,000 per year, each misclassification costs the Federal government \$56.00 in lost FUTA taxes annually. The impact on state UI revenues is more difficult to determine because states do not have uniform tax structures. However, we estimate that approximately \$225 per worker is lost from state unemployment tax revenues that flow into the Federal Unemployment Trust Fund accounts. Therefore, for every one million workers misclassified as independent contractors, the Federal Unemployment Trust Fund loses \$56,000,000 in FUTA taxes and an estimated \$225,000,000 in state unemployment taxes, for a total of \$281,000,000.

The most important loss to the federal revenue stream, for all taxes, is when the worker is not reported at all. Such workers are typically paid in cash, with the employer failing to report the compensation, either as wages or as a payment for services to an independent contractor. These workers are vulnerable to abusive and predatory employment practices and the federal government receives no revenue for income tax, Social Security/Medicare taxes, or FUTA.

b. In California, more than 200 FedEx drivers were misclassified as independent contractors. What kinds of worker protections were the FedEx drivers and others misclassified workers deprived of?

Answer: Misclassified workers in general lose out on essential worker protections that include unemployment insurance and the rights afforded to employees under the Fair Labor Standards Act (FLSA), such as receiving the minimum wage, overtime protections, and others. In addition, if the employer prevails in classifying their workers as independent contractors, the workers are no longer eligible to receive unemployment insurance benefits because their services are classified as self-employment, which is not covered under unemployment insurance laws.

Beyond unemployment insurance and worker protections under FLSA, independent contractors are responsible for their own health insurance, retirement and workers' compensation, in addition to paying the full 15.3% Federal Insurance Contributions Act (FICA) tax and paying their estimated withholding taxes. Although independent contractors may not technically "lose" health insurance or retirement benefits, as a practical matter they are less likely to be able to afford to pay for them, depriving them of access to adequate health insurance or retirement plans.

3. There are 650,000 farm workers in California who face death and illness from toiling in stifling summer heat. One such worker, Asuncion Valdivia, had been picking grapes in 110 degree heat during a 10-hour shift, when he collapsed and lost consciousness. After Asuncion regained consciousness his boss canceled the ambulance, instead leaving his son to drive him to the hospital. On the way, the son had to watch his father die at the age of 53 from a preventable heat illness.

During my time at the California State Assembly, I authored and saw the Governor sign into law, the first and only heat safety regulations for farm workers in the nation. Now, in California, farms are required to provide water, access to shade and training for their employees to learn how to prevent heat illness.

Yet since the law was implemented, at least 11 farm workers have died from heat-related illness; and this is in a state with mandatory regulations. There are hundreds of thousands more around the country in other states, who get no protection from the heat and who risk serious illness and even death every day they go to work in the summer.

a. What initiatives are you spearheading to better protect farm workers from heat illness and other health risks on the job?

Answer: The agricultural industry is one of the most dangerous and difficult industries for workers—particularly those who harvest crops by hand. One of my key strategic priorities is to ensure that workplaces are safe and healthy, particularly in high-risk industries like agriculture. The most effective tool that we have to ensure that farmworkers are employed in safe and healthy environments is a targeted enforcement program and adequate regulatory protections.

I am pleased that we successfully strengthened the protections for many farmworkers by finalizing new regulations that give the WHD more tools to enforce standards—not just on behalf of H-2A workers—but on behalf of U.S. workers who are employed in corresponding employment situations. These new rules:

- Extend H-2A program benefits to workers in “corresponding employment” (i.e., other workers employed by an H-2A employer in any work included in the job order and any work performed by the H-2A workers) to ensure that similarly employed U.S. workers are not adversely impacted due to the use of foreign workers.
- Reinstate the requirement that the State Workforce Agencies inspect and approve employer-provided housing before the Department issues an H-2A labor certification.
- Require that all employer-provided transportation meet at a minimum, Federal standards for vehicle safety, vehicle insurance and driver licensure standards applied to other agricultural workers.

Throughout 2010 and 2011, WHD will be conducting random investigations of H-2A certified employers to ensure that they are in compliance with these new rules, as well as with all other agricultural worker standards that may apply, including those standards related to housing, transportation, and requirements regarding the provision of potable drinking water, toilets, and hand-washing facilities (in States in which WHD has enforcement authority under the Occupational Safety and Health Act)—all of which directly affect the safety and health of farmworkers.

With respect to heat-related illnesses in particular, WHD will continue to work with States and other community organizations to distribute its heat stroke information materials as one step towards preventing the incidence of heat stroke in the fields.

Additionally, the Department’s Occupational Safety and Health Administration (OSHA) is actively involved in protecting workers from work-related heat induced illnesses or injuries. While enforcement of the standards for field sanitation and labor camps, including drinking water and ventilation requirements, has been delegated to the Wage Hour Division, OSHA offers several guidance resources related to heat stress that farm workers can access.

In particular, OSHA has developed heat stress quick cards available in Spanish and English (OSHA Publication 3154), Fact Sheets (DSTM 9-2005), a publication titled, “Protecting Yourself from the Sun,” and additional outreach materials that can be found on OSHA’s web page at <http://www.osha.gov/SLTC/heatstress/index.html>. OSHA has also focused on heat stress in its summer outreach to young workers who often work outdoors.

OSHA also recently organized a conference on health and safety for Latino workers in Houston, TX. Over 1,000 workers, community organization representatives, labor union members, business leaders and OSHA staff attended the conference and learned about workers rights under OSHA, the hazards they face, training techniques and how to communicate with Latino workers.

b. How can the federal government work more closely with farmers and states to ensure that no one else has to make the same sacrifice that Mr. Valdivia did just to bring home a paycheck?

Answer: WHD has relationships with various agricultural associations, such as the Western Growers Association, through which the agency provides general compliance information. The agency also works closely with the State monitor advocates to promote compliance in the fields and address issues that affect farmworkers. These relationships and others, such as those with various Mexican Consulates, provide avenues for distributing safety-related compliance information. As WHD engages in stakeholder consultations on its strategic goals and priorities, it will seek recommendations for other ways in which the public’s awareness of these important issues can be heightened.

Rep. Phil Hare

1. Madam Secretary, I am grateful that the Obama Administration has prioritized “job creation” efforts for 2010. Outside of providing/administering the critical safety nets of Unemployment Insurance and the COBRA benefit subsidy, what is your department doing specifically to spur job creation across this nation?

a. Can you tell me what is being done throughout many of our hard-hit rural areas?

Answer: Creating jobs throughout the country is vital to our economic recovery, including jobs in rural areas. Although job training is not equivalent to job creation, it is a necessary component that helps ensure American workers have the skills and resources necessary to obtain new jobs in high growth and viable industries. This combination of job creation and job training promotes and sustains both immediate and long-term economic growth. To ensure sustainable job growth, the Department of Labor recognizes the importance of helping employers through the public workforce investment system access customized job training services and the Work Opportunity Tax Credit.

As you know, February marked the one year anniversary of the passage of the American Recovery and Reinvestment (Recovery Act). The Department of Labor has used Recovery Act resources to assist workers and their families during these challenging economic times and to allow the One-Stop system to provide career counseling, training, and other work related services to a record number of individuals. Across the country, participation levels in WIA Adult and Youth programs were up approximately 40 percent (1,907,300) and the WIA Dislocated Worker participation levels were up over 80 percent (436,500) for the four-quarter period ending March 2010, over the four-quarter period ending March 2009. Under these programs alone, the public workforce system has served nearly 2 million more individuals this year compared to last year with funding from the Recovery Act and regular WIA formula funds, resulting in a total over 7 million participants being served by these programs.

The number of WIA Adult and Dislocated Worker participants receiving training services has increased significantly. Comparing the four-quarter period ending March 2010 to the four-quarter period ending March 2009, the number of WIA Adult participants that received training services increased from 209,580 to 325,609. This represents an increase of 55 percent. Similarly, the number of WIA Dislocated Worker participants that received training services increased from 124,243 to 241,596 during the same time period, an increase of 94 percent.

Within the \$400 million provided for Wagner-Peyser Employment Services, the Recovery Act also provided \$250 million in new Reemployment Service grants to states, which are used to reconnect Unemployment Insurance (UI) recipients to workforce and training opportunities. Leveraging these funds, the Department was able to serve nearly four million additional individuals. The Recovery Act also provided \$120 million in SCSEP funding for the Department to serve additional unemployed low-income seniors.

The Department of Labor is keenly aware of the particular needs of rural communities during these challenging economic times. Both formula funds and competitive grant opportunities, such as the \$750 million Recovery Act-funded initiative to support training, recruitment, retention and career pathways in clean energy jobs, health care and other emerging industries training, are available to rural communities. Examples of how these funds are supporting rural areas can be found in the Department's experiences with the Recovery Act-funded summer youth work experience program.

The Department of Labor invested Recovery Act funds to provide subsidized work opportunities to nearly 320,000 low-income youth during the summer of 2009. These examples of innovative summer work experiences for youth in occupations such as forestry, weatherization, carpentry, health care, and water conservation in rural areas include:

- Dunkirk, New York: Last summer 90 youth from rural Western New York were enrolled in Chautauqua County Area summer employment opportunities, which included two projects, focused on intergenerational learning opportunities. The Youth Adult Advancement Initiative Adult Day Care program provided youth the opportunity to work one-on-one with senior citizens and The Youth Adult Advancement Initiative East Side YMCA program allowed summer youth participants to be in charge, under the supervision of an adult supervisor, of 4-6 children up to the age of 13, participating in community center programs.

- Merced County, California: The County provided green job opportunities for youth working with the County's Water and Water Treatment Authority. Youth were involved in installation of water metering devices in rural residential areas and educated local residents on the importance of water conservation. Youth also gained work experience related to digging and installing meters as well as with computer systems related to water treatment processes.

- Odessa, Texas: This rural area placed a total of 436 youth in project areas such as Youth Entrepreneurship, Medical and Allied Health Careers, Certified Nursing Assistant (CNA), building green and sustainable communities, in a "Youth Tutoring Youth" program, and leadership training.

- Southeastern, Oklahoma: The Southeast Oklahoma Summer Employment Opportunities had 225 youth working 40 hours per week. The local area piloted two programs that resulted in certificates in either CNA/HHA or Carpentry/Weatherization.

Additionally, the Department has awarded National Emergency Grants (NEG) to regions that include dislocated workers in rural areas. A couple of examples include:

- Illinois—A NEG was awarded to provide assistance to workers affected by permanent closures and mass layoffs that impacted 18 of the State's 26 local workforce investment areas. The project serves dislocated workers from 31 companies including workers in rural Southern Illinois.

- Kansas—A NEG was awarded to serve workers affected by layoffs from multiple companies in south central Kansas. This NEG is providing services to former employees of four aviation manufacturers; Boeing, Bombardier Aerospace, Cessna, and Hawker Beechcraft Corporation. Participants are from urban, suburban, and rural areas.

2. I am of the understanding that the Obama Administration and the Department of Labor are in favor of seeing the Employee Free Choice Act become the law of the land. As you know, the House passed this bill in its current form in the 110th Congress and has the support to do it again. Can you tell me what you and DOL are doing to push our friends in the Senate to pass EFCA?

Answer: As I stated in my testimony before the Committee, the Obama Administration and I continue to strongly support the Employee Free Choice Act. I am committed to working with the rest of the Administration to build support for it. Strong unions are a key to a strong economy. Union membership is the surest path to a secure middle class job.

I know from personal experience that union jobs are good jobs, pay higher wages, and provide flexibility and benefits like paid leave, child care, education assistance, and retirement security. The Employee Free Choice Act would ensure that workers have a free and fair choice to have union representation if they want it, toughen penalties against employers that break the law and violate workers' rights, and help workers and employers reach a first contract in a reasonable period of time and bring an end to costly and contentious delays. I look forward to working with the Committee and our colleagues in the Senate to pass this important legislation.

3. As the "new Sheriff in town" what new powers and tools are you giving your deputies in OSHA and Wage & Hour Division to ramp up their enforcement efforts to deal with the widespread lawlessness practiced by some shameless employers?

Answer: The vision of the Department of Labor is "Good Jobs for Everyone." I am committed to refocusing the Department's worker protection agencies, like the Wage and Hour Division and the Occupational Safety and Health Administration on stronger enforcement of our nation's labor laws.

With the additional resources provided in the agency's FY 2009 and FY 2010 appropriations, WHD has increased its enforcement staff by over 250 new investigators, bringing the agency back to levels comparable to those in the late 1990s. The FY 2011 President's Budget request will allow the agency to hire 90 additional enforcement staff. This increase in WHD enforcement personnel will, in itself, provide the WHD with the ability to target for investigation those industries in which violations are most likely to occur. Directed investigations in low-wage industries—where the most vulnerable workers are employed—enable WHD to detect, to remedy, and to deter violations.

The Department has also launched a national public awareness campaign entitled "We Can Help" to inform workers about their rights. The campaign, in multiple languages, targets worker populations and industries in which workers are reluctant to report violations. The goal of the campaign is to reduce the perceived risk of filing a complaint with WHD.

WHD will also begin evaluating compliance levels in industries and program areas by conducting baseline investigation-based compliance surveys. These surveys, in addition to providing measures of compliance, inform WHD on the likely causes of violations and point to strategies for addressing high violations rates on an industry-wide scale.

Finally, new statutory and regulatory authority for imposing penalties, such as increased penalties for child labor violations that cause the death or serious injury of a child and WHD's new independent debarment authority in the final H-2A regulations, will enable WHD to promote future compliance. While these and other new initiatives, tools, and authorities are important, the key to ensuring future compliance and deterring violations is the effective use of existing penalty and enforcement authorities.

During FY 2010, OSHA will be hiring over 100 new inspectors, adding staff to our whistleblower and standard development programs, and adding 20 FTE for standard setting. Our FY 2011 budget proposal builds upon these increases.

Another tool that I have asked OSHA to look at is what can be done administratively to force employers to take the safety and health of their employees more seriously. For example, OSHA recently announced an initiative to implement long-overdue administrative modifications to its penalty formulas, which have not been adjusted for over two decades. These modifications will have the effect of raising OSHA penalties while maintaining the policy of reducing penalties for small employers and those acting in good faith. For too long, some unscrupulous employers have viewed paying OSHA's low penalties as the cost of doing business and have done nothing to make their workplaces safer.

Coupled with penalty restructuring, OSHA also plans to work with the Department of Justice to increase the effectiveness of the OSH Act's criminal provisions. Currently we are cross-training agency personnel and looking closely at all cases that meet the criminal enforcement criteria. OSHA is exploring expanding these efforts.

The Agency can only do so much within the constraints of the current Occupational Safety and Health Act (OSH Act). Therefore, the Department strongly supports the Protecting America's Workers Act (PAWA), which would provide OSHA with the authority and tools to more aggressively protect workers. These statutory changes combined with OSHA's administrative efforts will go a long way in dealing with the indifference to safety and health demonstrated by some employers.

4. Outside of the new additional staff that you have taken on in an effort to ramp up the much needed enforcement powers of your agency—what new tools do you have at your disposal to overcome the lack of effective deterrence in the minds of so many employers who take their chances on either not getting caught or worse, simply paying little or no penalty if they are caught?

Answer: There are several strategies by which WHD can affect compliance in industries and among employers. While these strategies may not necessarily be "new tools," many have not been utilized to their greatest potential. For example, WHD is developing data on the prevalence of violations within industries and will use that data to heighten public awareness of those industries with high rates of violations and particularly egregious violation. I believe that kind of attention will help deter violations much as the attention to the garment industry in the 1990s helped regulators and other enforcement authorities address the compliance problems in that industry. Working with advocacy organizations and community groups will help WHD raise public awareness of violations that may be occurring within local communities.

With additional enforcement resources, WHD will also be better able to pursue an enforcement strategy against employers and corporations that fail to take responsibility for compliance. The increased potential of litigation will add heft to the imposition of civil money penalties.

Other underutilized tools at the agency's disposal include the use of the "hot goods" provisions of the Fair Labor Standards Act, the use of compliance agreements that establish specific steps for ensuring compliance, and the imposition of back wage liabilities to joint employers that may have avoided such responsibilities in the past. Finally, as WHD examines its regulatory agenda, it will have an opportunity to determine if additional authorities, similar to the recently added debarment authority in the H-2A program, will promote future compliance.

The Administration supports the Protecting America's Workers Act (PAWA), which would make meaningful and substantial statutory changes to OSHA's penalty structure and enforcement program, providing the Agency with better tools to more aggressively go after recalcitrant employers. Additionally, in April, OSHA announced a new initiative to implement administrative modifications to the Agency's penalty formulas, which will have the effect of raising OSHA penalties to ensure that employers view penalties as a greater deterrent against violating occupational safety and health standards and regulations. Revisions to OSHA's penalty calculation system will serve to impose penalties that are more consistent with the seriousness of the violation and that also act as effective deterrents to the penalized employer and others.

Also in April, OSHA announced the new Severe Violators Enforcement Program (SVEP), another critical tool that will help the Agency improve its ability to deter safety and health violations. The SVEP, which replaces OSHA's existing Enhanced Enforcement Program (EEP), is intended to focus increased enforcement attention and resources on employers who have demonstrated indifference to their obligations under the Occupational Safety and Health (OSH) Act. In particular, the SVEP tar-

gets the most egregious and persistent violators who have willful, repeated, or failure-to-abate violations in one or more of the following circumstances: (1) a fatality or catastrophe situation; (2) in industry operations or processes that expose employees to the most severe occupational hazards and those identified as “High-Emphasis Hazards”; (3) exposing employees to hazards related to the potential release of a highly hazardous chemical; or (4) all egregious enforcement actions.

Under OSHA’s definition, employers that behave in a way that indicates they may be indifferent to their legal obligations and thereby endanger their workers would become an SVEP case. The SVEP actions, consisting of more inspections, public notification, and other measures, are intended to increase attention on the correction of the hazards or recordkeeping deficiencies found in these workplaces and, where appropriate, in other worksites of the same employer where similar hazards and deficiencies are present.

5. Some of these abusive employers are huge corporations, not small businesses. What extra efforts can you take to deal with these irresponsible and negligent labor law violators—especially when, in some cases, they are also the recipients of millions or billions of tax dollars as government contractors?

Answer: Companies should not be allowed to enrich themselves through the government’s procurement practices when they regularly and consistently violate the most basic labor standards provisions. As part of its Recovery Act program, WHD is actively engaged in conducting investigations of employers performing government construction and service contracts. The agency will pursue debarment action against government contractors that meet the statutory and regulatory criteria for debarment.

In addition, EBSA is actively investigating employers performing government construction and service contracts who fail to pay fringe benefits such as retirement and health benefits to employees, as required by law under the Davis Bacon and Service Contract Acts.

OSHA continues to do everything within its statutory authority to deal with irresponsible employers. For example, OSHA is increasing the use of Corporate-Wide Settlement Agreements (CSAs), which address safety and/or health hazards that exist at more than one location of a given employer. The Directive implementing the use of CSAs is currently being revised. In revising its CSA Directive, OSHA will expand the use of this enforcement tool by proactively encouraging these settlements with smaller multi-site employers, and in lower penalty cases. Under existing policy, only an employer can propose establishing a settlement agreement on a corporate-wide basis; under the new policy, OSHA will be permitted to initiate the use of these agreements.

Additionally, the Protecting America’s Workers Act (PAWA), combined with OSHA’s administrative actions to adjust its penalty formulas would allow the issuance of higher penalties against these abusive employers, which we believe will have a greater deterrent effect.

OFCCP has embarked on an initiative to return to 2001 staffing levels, which will allow OFCCP to broaden its enforcement efforts, focus on identifying and resolving both individual and systemic discrimination, and conduct ARRA-related compliance evaluations on federal contractors. OFCCP will focus its attention on a broad range of issues that arise in individual cases, including harassment, retaliation, termination, and failure to promote. Since federal contractors are obligated to self-audit and correct identified problems, OFCCP will step up monitoring of this element of contractor compliance. As part of OFCCP’s enforcement of Executive Order 11246, Equal Employment Opportunity, a renewed emphasis on conducting construction reviews is planned.

In addition to increasing staff levels, OFCCP has an aggressive regulatory agenda that proposes to strengthen enforcement under Executive Order 11246; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended. These authorities prohibit Federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, national origin, disability, and protected veteran status. They also require Federal contractors and subcontractors to take affirmative action to ensure equal employment opportunity in their employment processes.

Rep. John Kline

1. Last month, you called for passage of H.R. 1409, the so-called “Employee Free Choice Act,” in response to data released by the Bureau of Labor Statistics showing that for the first time in history, more union members work for the federal, state, and local governments than in the private section. A detailed study by economist Dr. Anne Layne-Farrar concludes that were this bill to become law, every three percentage points gained in union membership through card check would result in a

one percentage point rise in the unemployment rate the following year. The study further concludes that the unionization of 1.5 million existing jobs under EFCA in its first year would lead to the loss of 600,000 jobs by the following year.

Given these facts, how can the Obama Administration be supportive of a bill that has been shown to be a job-killer, and how can the Administration favor increasing unionization where that is shown to result in job loss?

Answer: I do not agree with Dr. Layne-Farrar's conclusion that passage of the Employee Free Choice Act would result in higher unemployment rates. Dr. Layne-Farrar's analysis ignores the fact that during the 1950's when our country experienced very high union density, we also experienced low unemployment. Well-respected economists, such as Lawrence Mishel, president of the Economic Policy Institute, have questioned the validity of Dr. Layne-Farrar's methodology and conclusions.

The economic crisis is threatening the continued existence of the middle class in the American economy. Our national economy will fully recover only when the middle class is stable and strong. Strong unions are a key to a strong economy. Union membership is the surest path to a secure middle class job. Union jobs are good jobs. They pay higher wages and provide flexibility and benefits like paid leave, childcare, education assistance, and pension security. That's why the Obama Administration and I support the Employee Free Choice Act.

2. The Administration's health care reform bill contains numerous provisions impacting the Employee Retirement and Income Security Act (ERISA), which provides the foundation for employer-sponsored health benefits covering more than 160 million people. Has the Department done any analysis of how the new mandates on ERISA-based plans contained in this legislation would affect existing ERISA-governed plans?

Answer: While the Department has not conducted this analysis, according to the Congressional Budget Office, individuals who are covered by employer-sponsored health plans will likely see lower premiums under health reform. Reform will lower premiums by reducing administrative costs, increasing competition between insurance companies and creating a larger pool of insured Americans. The new protections and benefits provided by the market reforms included in health reform will strengthen coverage for participants. For example, information explaining plan benefits will be required to be simple and clear, and participants will not be subject to lifetime limits.

On May 10, the Department of Labor, HHS and the Treasury issued the first set of regulations as a result of the health care bill's enactment. These regulations implement the requirement that group health plans providing dependent coverage of children make such coverage available until age 26. This requirement applies to existing plans. In connection with these regulations, the Departments conducted an analysis of the economic impact of this requirement. As the Departments issue regulations on other provisions of the Affordable Care Act, they will include economic impact analyses.

Has the Department done any analysis as to the number of individuals currently receiving health coverage under an ERISA-governed plan who may lose their existing coverage?

Answer: The Affordable Care Act (ACA) will make available more high quality, affordable insurance options. We believe that more small employers in particular will be able to offer high quality insurance than would be the case absent reform. It also is possible that some employers and employees will choose to move from their current insurance arrangements to new arrangements that deliver better value. ACA will strengthen the entire system, including employment based insurance.

3. There is little dispute that ERISA has helped tens of millions of employees and their families secure high quality, affordable coverage from employer-sponsored group health plans. The Administration's health care reform proposal jeopardizes the viability of this structure by imposing new mandated benefits, administrative requirements, and taxes on these plans. Some have commented that under the Administration's proposal, ERISA would be sufficiently weakened to permit state and local governments to enact their own health care reform plans, which could entail new taxes and mandates on ERISA-governed group health plans.

In light of these facts, what is the Department's position on proposals that would weaken ERISA preemption? If ERISA group health plans were required to comply with multiple state and local laws, would that not make coverage more expensive for beneficiaries and ultimately increase the number of uninsured workers?

Answer: The Affordable Care Act (ACA) does not weaken ERISA. Under ACA employers can continue to offer insurance under nationally uniform rules. ACA will dramatically reduce the number of uninsured Americans.

4. The City of San Francisco adopted a law that taxes local businesses to help pay for its “Health Access Program” for uninsured residents. This law was challenged by the Golden Gate Restaurant Association on the basis that ERISA preempted the law. Although the District Court ruled that ERISA preempted the local law, the Ninth Circuit Court of Appeals reversed, and the case is currently on appeal before the U.S. Supreme Court. The Department of Justice previously filed a brief in support of the Restaurant Association and supportive of ERISA preemption.

Will the Department of Labor take a similar position and support the position of the Department of Justice in court, so as to protect the ERISA structure and provide certainty to those who provide and receive benefits under that structure?

Answer: The Supreme Court requested the views of the United States on the issues presented by this case. On May 28, 2010, the government filed an amicus brief suggesting that, in light of the enactment of the Affordable Care Act, the Court should not grant certiorari. In the brief, the government takes the view that there is little reason to believe that additional state and local governments will seek to create programs like San Francisco’s.

5. Mental health parity legislation was enacted in October 2008 and in most cases, the law became effective on January 1, 2010. However, regulations for this important change in the law were only published this month in the Federal Register (14 months after the legislation was enacted), so most employers and health plan sponsors had to put their 2010 health plans in place without knowing how the provisions were going to be interpreted by the three federal agencies which have jurisdiction over these requirements.

The preamble to new rules states that you will consider “good faith” efforts by employers and health plans to comply with the change in the law in the absence of your regulations. That is a helpful statement, but it will not prevent employers or health plans from being subject to litigation if a plan participant decides to bring an action against a plan alleging it has not complied with the new law.

What steps is the Department taking to ensure that future regulations or guidance are provided much sooner than the effective date set by Congress?

Answer: The Department shares your concerns regarding this very important issue and works very diligently to try to issue timely regulations and other interpretive guidance. In the health care field, the Department is looking to improve our effectiveness and that is why we have included in our budget request a modest but necessary increase in funding to support our Health Plan Standards Office in providing more timely regulations and guidance. The Department would greatly appreciate your support in this regard.

6. The Genetic Information Nondiscrimination Act (GINA) was enacted in May 2008 and it directed the agencies of jurisdiction ((Department of Labor, Department of Health and Human Services and the Department of Treasury) to issue regulations by May 21, 2009. The agencies missed this deadline by five months. As a result, employers and insurers had to make decisions about their plan design without guidance interpreting the new statutory regime. When the agencies did issue interim final regulations, many plans’ plan year was already underway or they were in, or entering, fall annual open enrollment periods for their 2010 plan years.

Given this timing, what are your views regarding providing a “good faith” enforcement policy for GINA compliance, similar to that included in the MHP regulations?

Answer: This is another very important issue, and the Department appreciates your interest. As you know, the GINA regulations were issued jointly by the Departments of Labor, HHS, and the Treasury. Any enforcement policy guidance would need to be similarly coordinated among the three Departments. The Labor Department is aware of the compliance concerns you raise and will work with HHS and Treasury to explore possibilities on this issue.

7. In early 2009, DOL announced it would add 250 new investigators to “refocus the agency on [wage and hour] enforcement responsibilities.”

Are those investigators in place now? What effects have those additional investigators had on the Wage and Hour Division’s enforcement statistics for 2009? According to your written testimony, the Wage and Hour Division has recovered more than \$172.6 million in back wages for approximately 220,000 workers. How does that compare to the 2008 figure?

Answer: The Wage and Hour Division began FY 2009 (in October 2009) with the lowest number of investigators since FY 1973. The authority to hire new investigators came with passage of the FY 2009 appropriation in March 2009—six months

into the fiscal year. In April, WHD undertook an ambitious and aggressive hiring plan to recruit and bring on-board 250 new investigators. By October 2009, most of the new investigators were on-board and reported to their respective offices.

These new investigators must complete a comprehensive 12-week pre-training curriculum and put in a minimum of three months of on-the-job training prior to formal classroom training. On February 11, 2010, 107 new Wage and Hour investigators completed their Basic I Investigator Training. The graduates completed an intensive three-week training on the investigative process and application of the Fair Labor Standards Act. Approximately a year after they complete their Basic I training, these new investigators undergo Basic II Investigator Training to develop their skills and knowledge base in some of the more complex wage and hour issues and statutes. These new investigators will not become fully productive until about their third year on the job. WHD's next Basic I class of over 100 investigators began the last week of February 2010.

As one can readily determine, the newly hired investigators could not have contributed to WHD's FY 2009 statistics. In fact, new investigators spend their first several months on the job shadowing senior investigators so that they can learn techniques for interviewing employers and employees, reviewing records and otherwise investigating compliance. This on-the-job training, while critical to new investigators, has the effect of reducing the normal productivity of the agency's senior investigative staff. As a result, WHD would expect a decline in its productivity measures as it saw in FY 2009. During FY 2009, WHD collected over \$172.6 million in back wages compared to FY 2008 during which the agency collected \$185 million in back wages. In FY 2009, WHD collected back wages for approximately 220,000 workers compared to approximately 229,000 workers in FY 2008. As of mid-year 2010, WHD had collected \$76,727,203 on behalf of 91,347 workers.

8. The President's budget calls for the establishment of a \$50 million State Paid Leave Fund within DOL to provide competitive grants to states that choose to launch paid-leave programs.

Under what legislative authority would this State Paid Leave Fund be created and where would the \$50 million come from to create such a fund? More importantly, how does assisting states potentially impose new taxes help in creating more jobs? Won't this make it more expensive to for employers to hire more employees?

Answer: The authority necessary to create the new program is contained in the language proposed in the President's FY 2011 Budget. The \$50 million requested is new discretionary funding and represents a small investment to ensure that workers are able to balance their work and family responsibilities without fear of losing their jobs. The language provides:

For grants to assist in the start-up of new paid leave programs in the States, \$50,000,000, of which the Secretary may reserve not more than 1 percent for administration related to such grants.

This is not a new Federal mandate or employer tax. The State Paid Leave Fund will simply make it a little easier for those States that want to design and establish paid leave programs to do so. States like California and New Jersey that have already established paid leave systems have shown that these benefits can be provided at no cost to employers and with very modest contributions from employees. States will need to weigh the pros and cons of such a program for their own constituencies as California and New Jersey did and will have the opportunity to debate the merits through their own legislative process.

9. On September 2, 2009 DOL announced its intention to create a "chief evaluation office" tasked with improving program accountability, eliminating waste within the department, and concentrating DOL's enforcement resources.

Has the chief evaluation office begun its operation? If so, what is the focus of the office and its enforcement role, particularly as it relates to other enforcement divisions within DOL?

Answer: The Chief Evaluation Office is part of the Office of the Assistant Secretary for Policy and coordinates closely with the Office of the Chief Economist.

The Office is headed by a Chief Evaluation Officer who is responsible for developing and managing a comprehensive DOL evaluation program. The program will be designed by the Chief Evaluation Officer in coordination with the Assistant Secretary for Policy, the Chief Economist, the Office of the Deputy Secretary and relevant agency heads. Departmental evaluation funding will be allocated to agencies according to the program.

The Chief Evaluation Officer assists agencies in preparing their annual research and evaluation plans; provides technical assistance in project design and analysis; ensures a consistent and high standard of rigor in the Department's evaluations; and is responsible for ensuring that research and evaluation are aligned with and

responsive to the Administration's overarching performance goals and the Department's strategic vision. Enforcement agencies do not have their own dedicated source of evaluation funding and thus request evaluation funds from departmental management. In the past this funding has been awarded by the Center for Program Policy and Results. In FY2009 the Deputy Secretary's Office and the Chief Economist's Office participated in the decision making process. FY2010 funds are allocated jointly by the Offices of the Deputy Secretary, Chief Economist, and Assistant Secretary for Policy. In future fiscal years, the coordination of this work will be done by the Chief Evaluation Office. Through this function, the Chief Evaluation Office will work with agencies to determine what the desired outcomes of their enforcement programs are and how to evaluate their effectiveness in reaching those outcomes. The Chief Evaluation Officer will also make sure that the programs being evaluated are aligned with the Department's enforcement priorities including targeting of the most egregious and persistent violators, corporate-wide enforcement, and leveraging resources to bring about broad-based compliance.

Dr. Jean Grossman has been selected as the Chief Evaluation Officer and formally joined the Department on June 1, 2010. It is expected that additional staff will be hired to work in the Office of the Assistant Secretary for Policy and the Chief Evaluation Office on these matters.

10. The Department has reissued a previously-withdrawn recordkeeping regulation targeting so-called musculoskeletal disorders (MSDs), and requiring that MSDs be recorded on workplace safety logs. In 2001, the Department settled a lawsuit by agreeing to remove the requirement that MSDs be recorded.

Can you explain how the Department has the legal authority to reimpose this rule, thereby renegeing on its settlement agreement in this case?

Answer: The settlement agreement that OSHA entered into in 2001 did not remove the requirement to record work-related MSDs. Employers are and always have been required to record work-related MSDs that meet the general recording criteria for all injuries and illnesses in the OSHA Recordkeeping regulation.

In 2002, after notice and comment, OSHA removed the separate MSD column on the OSHA Form 300. This decision was not part of or required by the settlement agreement, nor did it eliminate the requirement that employers must report work-related MSDs.

The proposed rule would merely change where employers record MSDs on the OSHA Form 300; it would not establish new or special criteria for recording injuries already required under current law. Employers will continue to use the recording criteria for MSDs as they are required to use for any other injury or illness.

The separate column would improve the accuracy of the data collected on MSDs, providing OSHA, workers and employers better information to help identify and reduce hazards and patterns of injuries in the workplace.

11. Last September, DOL issued a solicitation for construction of a Job Corps Center in New Hampshire that the Department declared was "urgently needed." Without explanation, the Department attempted to impose a Project Labor Agreement (PLA) on the project, which would have required all successful bidders to force their employees to work under a union contract even though more than 90 percent of the workers in New Hampshire are non-union. After a local small business filed a protest against the PLA, the Department cancelled the solicitation, again without sufficient explanation.

Please explain why the Department attempted to impose a PLA on this project that was well under the \$25 million threshold prescribed in the executive order. Please explain further why the Department canceled the entire solicitation of an "urgently needed" project in the face of the bid protest instead of simply removing the PLA. Finally, please explain why has the Department not reissued the solicitation for this urgently needed Job Corps Center without any PLA requirement.

Answer: Executive Order 13502, 74 Fed. Reg. 6985 encourages agencies to consider using Project Labor Agreements on large-scale construction projects over \$25 million. The projected cost of the New Hampshire Job Corps Center will exceed this threshold. The Department of Labor remains fully committed to building and opening the Manchester Job Corps Center. Cancelling the solicitation provides the Department with additional time to study the proper implementation of Project Labor Agreements. The Department expects to reissue the solicitation for the New Hampshire Job Corps Center as soon as is prudent.

Rep. Tom Price

1. The Obama Administration has given unprecedented access at the White House to organized labor officials. Partial records for 2009 indicate that President of the SEIU Andy Stern has made 27 visits to the White House, and Secretary-Treasurer

of the SEIU Anna Berger has made 31 visits. AFL-CIO President Richard Trumka has visited nine times, and United Steelworkers President Leo Gerard made another eight visits.

a. To date, how many visits/meetings have you taken with organized labor officials? How many of those visits/meetings have taken place at the Frances Perkins Building in Washington, DC? Please categorize these visits/meetings if necessary.

Answer: I do my best to accommodate most meeting requests, as my schedule permits, whether from labor officials, business leaders or other constituency groups. Each of the labor leaders you list has asked for and received a meeting with me. I also get many requests to speak at conferences of labor, business and constituency groups, and I attend those as my schedule permits. When I travel I look for opportunities to meet with local labor, business and constituency groups.

Some meetings are organized for particular purposes. For example I am responsible for co-hosting with Trade Ambassador Ron Kirk, a quarterly meeting of labor leaders, the Labor Advisory Committee, to hear their perspectives on trade policy. In preparing for hosting the G20 Labor ministers, my staff organized special consultations of both labor and business leaders to incorporate their perspectives into our preparation for that meeting.

b. Does the Department of Labor consider Mr. Stern, Ms. Berger, Mr. Trumka, and Mr. Gerard to be lobbyists? How does the Department classify them for purposes of visits/meetings?

Answer: The Department is not aware of any circumstances during this time period when it needed to ascertain whether the individuals listed above were lobbyists.

c. Does the Department of Labor have any special task forces or conduits established to stay in regular contact or gather input from organized labor officials?

Answer: Yes, I have two staff members in the Office of the Secretary whose responsibilities include contact with Department stakeholders, including organized labor.

2. You and President Obama have been leading proponents of “green jobs.” What is a “green job?” How does the Department classify a “green job?”

Answer: Currently, there is no one standard definition of green jobs across agencies and industries. The Bureau of Labor Statistics (BLS) has started a process of soliciting comments on the definition BLS will use in measuring green jobs. According to BLS, green jobs, broadly defined, are jobs related to economic activity that helps protect or restore the environment or conserve natural resources. These economic activities generally fall into the following categories:

- Renewable energy
- Energy efficiency
- Greenhouse gas reduction
- Pollution reduction and cleanup
- Recycling and waste reduction
- Agricultural and natural resources conservation
- Education, compliance, public awareness, and training for protecting the environment or conserving natural resources

For the American Recovery and Reinvestment Act (Recovery Act) Solicitations for Grant Awards, ETA utilized the Green Jobs Act of 2007 which identified seven energy efficiency and renewable energy industries including: 1) energy-efficient building, construction, and retrofit industries; 2) renewable electric power industries; 3) energy efficient and advanced drive train vehicle industries; 4) biofuels industries; 5) deconstruction and materials use industries; 6) energy efficiency assessment industries serving residential, commercial, or industrial sectors; and 7) manufacturers that produce sustainable products using environmentally sustainable processes and materials. Applicants were also encouraged to propose strategies that would train for green occupations in transportation; green construction; environmental protection; sustainable agriculture, including healthy food production; forestry; and recycling and waste reduction industries. Additionally, states, private and non-profit organizations, and local governments are working to address emerging green needs in their own jurisdictions. Therefore, ETA allowed flexibility for grant applicants to describe their training and job placement activities as green within the parameters laid out by the Occupational Information Network (O*NET) study described shortly.

Before discussing the O*Net Study, it is important to note that a portion of the Recovery Act investments fund state labor market information research on green occupations; these investments are being used by grantees to collect, analyze, and disseminate labor market information, and to enhance the labor exchange infrastructure for careers within the energy efficiency and renewable energy industries. Grantees are including strategies for posting job openings to online job banks that

will be highlighted for easy recognition as green jobs by job seekers, in an effort to ensure that workers trained for green jobs will be able to find employment in energy efficiency and renewable energy sectors after they finish training.

As mentioned, the Department of Labor-sponsored O*NET project has produced a report on the impact of investments and technological developments related to energy efficiency, renewable energy, and environmental sustainability. In the report titled, *Greening the World of Work: Implications for O*NET-SOC and New and Emerging Occupations*, research identified 218 occupations impacted across three distinct categories:

1. **Green Increased Demand**—These are existing occupations that are expected to experience increased employment demand. In this category are 69 O*NET-Standard Occupation Classification (SOC) occupations, such as Forest and Conservation Workers, and Electricians.

2. **Green Enhanced Skills**—These are existing occupations that will experience changes in tasks, skills, and credential requirements (and may or may not increase in demand). In this category are 59 O*NET-SOC occupations, such as Architects, and Plumbers.

3. **Green New and Emerging**—These are more specialized occupations that are sufficiently different in tasks and skill requirements from currently existing O*NET-SOC occupations, such that they merit separate identification and data collection on O*NET occupational requirement variables, such as occupation specific skills and tools and technology. Forty-five occupations in this category are identified in prior research, with 45 additional new and emerging occupations arising out of this specific study of green economic investments.

3. At the end of January 2010, the Department of Labor published a proposal to revise its regulation on Recording Occupational Injuries and Illnesses in order to add a column on the OSHA Form 300. The addition is to capture information on work-related musculoskeletal disorders.

As succinctly as possible, please describe the rationale for capturing such information.

Answer: Under current law, employers are already required to report work-related musculoskeletal injuries and disorders (MSDs). Putting the MSD column back on the OSHA Form 300 would improve the accuracy of the nation's data on work-related MSDs. In turn, OSHA, workers, and employers would have better, easier-to-use information to help identify and reduce hazards on this important group of occupational injuries and illnesses.

4. Although the Congress passed legislation in 2001 to overturn a Clinton-era ergonomics regulation, is the Department of Labor moving forth with the implementation of a similar regulation?

Answer: Although musculoskeletal injuries and disorders (MSDs) continue to be a major problem for American workers, at this time the Department has no plans to issue a standard in this area.

Rep. Cathy McMorris Rodgers

1. The Obama Administration has talked about helping workers improve the work-family balance, something that is a stated goal of the White House Task Force on Working Families. First Lady Michelle Obama has embraced that goal as well, as part of her commitment to “ensure that there are policies in place that help women and men balance their work and family obligations without putting their jobs or their economic stability at risk.”

In fact, workplace flexibility could very well provide one of the solutions to help employers navigate these tough economic times. Many employers have been forced to reinvent work: as part of an effort to improve efficiency, adjust to shifts and demands in the economy, and to respond to employee desires for greater accommodation in the “when, where, and how” they do their work. The advantages and benefits of increased flexibility in the workplace accrue to both employers and employees alike, and have been well-documented over the years.

Private sector employers and employees are denied the use of so-called “comp” time programs, which would very simply provide a large measure of workplace flexibility, while most public sector employees—including Federal workers—have the ability to choose comp time off in lieu of overtime pay.

What is your view on this type of work arrangement in terms of helping workers better balance work and family obligations, and would you support extending a comp time option to workers in the private sector?

Answer: The Administration and I strongly believe that workplace flexibility is a necessity to meet the growing demands of our workplace and families. Significant demographic changes in the workforce mean that more working individuals must

juggle the responsibilities of taking care of children and helping older parents and to pursue education to enhance skills to keep pace with the demands of the workplace. Employers also directly benefit from flexibility for workers; the White House Council of Economic Advisers released a report in March 2010 that found that flexible work arrangements can lead to lower turnover and absenteeism and higher productivity.

The Administration and I strongly support increasing flexibility in the workplace. I recently participated in the Workplace Flexibility Forum at the White House, and we are committed to increasing flexibility in the workplace. Over the next year, the Department of Labor will be hosting regional forums to continue the dialogue started at the White House event and to highlight best practices of employers who are already deploying flexible options in their workplaces to help others learn from their experiences. In addition, a wide variety of agencies at the Department of Labor are working together to examine our programs, policies, data collection, and regulations that impact workplace flexibility to see how we can better meet the needs of the modern workforce. Similarly, the Office of Personnel Management has announced a pilot program that would evaluate workers on their performance and would allow workers to choose where and when they work. The Department of Labor is very interested in exploring innovative programs and policies that would allow flexibility for workers, especially low-wage workers who often have little or no control over their work schedules, while preserving the fundamental safeguards in current law.

2. The Fair Labor Standards Act was enacted more than 70 years ago. We know that over the years, there have been a number of amendments made to the law in order to address changing workforce conditions, such as when, where and how work is conducted today. At the same time, there are many aspects of the law that have not been updated or modernized in decades, nor have there been changes to address the advent of new technologies—such as Blackberries, smart phones and even the Internet—and how these technologies affect how, where and when work is conducted today.

These outdated and unclear provisions restrict the ability of companies to provide certain workers with work place and work time flexibility, along with access to technology outside the workplace. And, this results in more difficult work-life balance decisions—and limited work/life balance options—for workers. It also negatively impacts job creation opportunities at a time when job creation should be our primary focus.

Today's worker responsibilities, lifestyle choices, and changing work methods necessitate that specific aspects of our primary labor law be reviewed, modernized and clarified in order to provide workers and their employers with both the flexibility and certainty that are lacking today. I would bring to your attention three specific issues which greatly need to be updated and clarified:

- First, the lack of a statutory definition of 'De Minimis Use of Technology' and the lack of clarification of what types of activities trigger the start of the work day;
- Second, the unequal treatment of inside salespeople compared to their peers who are doing the same work from a different physical location; and
- Third, the outdated definition of what constitutes a "computer professional."

What is the Department's view with respect to about taking a fresh and necessary review of these three issues?

Answer: I agree that there are aspects of Fair Labor Standards Act that should be updated to provide greater protections to workers employed in work environments different from those that existed when the law was first enacted. The Administration would be pleased to review and provide its views on any legislation affecting today's workforce.

[Whereupon, at 11:50 a.m., the committee was adjourned.]

