

**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2017**

THURSDAY, MARCH 17, 2016

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:01 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Roy Blunt (chairman) presiding.

Present: Senators Blunt, Cochran, Alexander, Cassidy, Capito, Lankford, Murray, and Schatz.

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. THOMAS E. PEREZ, SECRETARY

OPENING STATEMENT OF SENATOR ROY BLUNT

Senator BLUNT. The Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will come to order.

Good morning, Secretary Perez. Thank you for taking your time to be here with us today to discuss the department's fiscal year 2017 budget request. We look forward to hearing your testimony and having the chance to talk about it.

Certainly, fostering an environment and regulatory agenda where everyone can move forward in a positive way, where jobs can flourish, where workers are protected, where Americans can establish and grow businesses, and keep the country's economic engine driving forward, are shared priorities.

This is a budget that reflects many of those bipartisan and widespread supported programs, like workforce training, ensuring safe workplaces, helping Americans who lose their jobs return to the workforce, that make up really the bedrock of the department's responsibilities.

At the same time, the devil is always in the details. I was disappointed with the proposed increase just simply because it is an anticipated increase of \$627 million for the department when our total nondiscretionary defense spending is increasing by \$40 million.

My advice would be do not make big plans to spend that money yet, but we will talk about that, I am sure, as the hearing goes on.

I think the increase is only possible because of some attempts in other parts of this big budget for Labor and Education and Health and Human Services to believe that lots of things are going to happen on the mandatory side that I have reason to believe cannot happen in this Congress this year on the mandatory side.

That does not mean we are any less committed to the real priorities we need to have on the discretionary side. I hope we can work together to find those priorities.

As the country continues to recover from recession, it is really time, I think, for the administration to admit that government regulation and overreach are an obstacle to the kind of job creation we would like to see. I continue to have serious concerns about the aggressive regulatory agenda and the use of other methods to short-circuit the way that regulations should be out there for people to see and think about and understand before they go into effect.

I hear in our State and from people all over the country about the adverse effects that the department's regulations have had on them. I believe I can come up with a regulation that any group you want to name is concerned about.

I think in many cases, Mr. Secretary, they are less concerned about the regulations themselves than they are about the letters of interpretation, the things that seem to be moving toward more and new regulations without even going through the regulatory process.

The growth in the agency, the 779 new employees that this budget requests, is highly unlikely to happen. But we will be looking at the budget, and we will be really trying hard to find the areas that we can agree on, too, because we do want to have an agenda that moves forward for a better trained work force, a safer workplace, an America that has better jobs, that creates stronger families.

Your department has an awful lot to do to help create that atmosphere of growth and better jobs rather than a regulatory atmosphere where the kinds of things that would normally happen otherwise cannot get around the obstacles that some regulations create.

But we are glad you are here.

[The statement follows:]

PREPARED STATEMENT OF SENATOR ROY BLUNT

Good morning. Thank you, Secretary Perez, for appearing before the Subcommittee today to discuss the Department of Labor's fiscal year 2017 budget request. We look forward to hearing your testimony.

Fostering an environment and regulatory agenda where everyone can flourish, where workers are protected, and where Americans can establish and grow businesses keeps the country's economic engine driving forward. We have many shared priorities in the budget that reflect bipartisan and widespread support. Workforce training, ensuring safe workplaces, and helping Americans who lose their jobs return to the workforce make up the bedrock of the Department's responsibilities.

At the same time, the devil is in details and I am disappointed that the \$627 million increase for the Department of Labor dwarfs the total increase for all non-defense discretionary spending—which is \$40 million. Further, this increase was only possible with untenable budget gimmicks within the Department of Health and Human Services' budget request. Finally, the Administration is attempting to evade the agreed-upon spending caps by designating large portions of the budget request as "mandatory," or off-budget, spending.

It is my hope we can work together to identify priorities and find common ground while adhering to budget caps agreed to a little more than 4 months ago.

As the country continues to recover from the recession, it is time for the Administration to admit that government regulations and overreach do not create job growth. I continue to have serious concerns about the Department's aggressive regulatory agenda and methods used to short-circuit the fair and open regulatory process.

I hear from Missourians and Americans across the country about the adverse effects the Department's regulations has on them and job creation in their community. Yet the Department continues to move forward with increasing burdens that deter job creators from hiring.

Even more concerning, the Department pushes many of these controversial policy changes outside the regulatory process altogether and without public comment or input. They are being implemented through administrative memos, sweeping new "interpretation" publications, and changes in definitions that alter the scope of the law. Many small businesses feel almost overrun by aggressive regulation and by policy changes that do not result from the legal, full, and open regulatory process.

Finally, I have concerns about bureaucratic growth. The Department has again requested large increases in departmental personnel, 779 new employees in fiscal year 2017 alone. This request is both unaffordable and primarily used to drive a partisan regulatory agenda.

Mr. Secretary, I look forward to hearing your testimony today and appreciate your dialogue with us about these important issues. While there are clearly matters on which we disagree, I know we share a strong desire to protect and support the American workforce and a stronger economy.

Thank you.

Senator BLUNT. I am certainly glad that Senator Murray and I get to continue to work together on this committee, and I turn to her for her opening remarks.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman.

Secretary Perez, thank you for being here today and for all that you do and your department does to help support our Nation's work force.

This is a really critical moment in the American economy. While we have seen 72 straight months of job growth, and unemployment has fallen 5 percent, wages have only risen slightly in the past year, and 8 million jobseekers cannot find work.

Back in my home State of Washington, I have seen clearly that when workers succeed, business succeeds and the economy succeeds. So I believe the only way to create sustainable economic growth is from the middle out, not from the top down.

Secretary Perez, I know you agree and this is central to the mission of the Department of Labor. I look forward to your testimony and the discussion about the department's funding needs for fiscal year 2017.

Expanding economic security for more Americans will require investments in the department's mission. The department's budget proposal for programs within this subcommittee's jurisdiction total almost \$12.8 billion, which is an increase of \$627 million over last year. The department needs these investments to help ensure workers have the resources and support they need to improve their skills and move into 21st-century careers and strengthen government policies that support our working families.

I want to start by talking about the administration's vision for investing in training today's work force and preparing for the jobs of the future.

Working with Chairman Blunt, I was very pleased we were able to invest \$90 million in an apprenticeship grant program in the 2016 omnibus. Expanding access to apprenticeships has been a top

priority for me because it sets workers on a clear career pathway and ladders into the middle class. And research actually shows that for every taxpayer dollar we spend on these programs, the return on investment is \$27.

So I was pleased to see the President's proposal continue this important investment to develop comprehensive programs that expand apprenticeships across multiple sectors.

The proposal also includes investments in programs that provide comprehensive, in-person support for veterans and unemployed workers. Those programs have proven to be effective at helping connect workers with good jobs.

But building our economy from the middle out requires more than making these training investments. It also calls for protecting workers' basic rights, and that starts with the department updating overtime standards and Congress increasing the minimum wage and passing legislation to combat wage theft.

I understand that we in Congress may not agree on all of these issues. However, everyone should agree that every employer should comply with the law as it exists today. That is why I was pleased to see the \$49 million increase proposed in the budget for the Wage and Hour Division.

The Wage and Hour Division within the Department of Labor protects workers' paychecks by cracking down on Federal minimum wage violations. The division also helps make sure that workers get the overtime pay they have earned.

With no increase in its budget since 2012, the number of people investigating these violations has declined. If the funding level is frozen again in 2017, the department will be unable to conduct an estimated 1,600 investigations, which will leave workers in our country with few options for collecting millions of dollars in wages that are owed to them. And diminished oversight means that some unethical employers will be able to get away with denying workers the pay that they have learned.

Updating workers' rights also means expanding paid leave, eliminating gender pay disparity, and strengthening retirement security.

I appreciate the budget's focus on these issues as well as the Secretary's leadership in those areas. It is important to remember that the 2-year budget agreement rolled back the automatic cuts and allowed us to restore key investments, but it, of course, did not go as far as many of us had hoped. That means, as it often does, that difficult choices will be unavoidable in 2017. They will be tougher than last year.

Even so, I believe our subcommittee can find a way to write a bipartisan bill once again, if we have an allocation that allows us to make the investments needed in worker training and other vital areas.

I know Chairman Blunt would like to work on this bill in a bipartisan manner as well. I appreciate it. And I appreciate the progress we have made.

So I look forward to continuing to work with you, Secretary Perez, and all of our colleagues here today in the coming weeks and months.

With that, let me turn it back over to the chairman. Thank you.

Senator BLUNT. Thank you, Senator Murray.

We will probably have time for more than one round of questions, and we will do that on a 5-minute basis in the order now that members arrive.

Mr. Secretary, I mentioned my continued concerns that the impacts of regulations from the department often do not seem to be—I am sorry. Let's listen to you first.

[Laughter.]

SUMMARY STATEMENT OF HON. THOMAS E. PEREZ

Secretary PEREZ. It is your committee, Mr. Chairman.

Good morning. It is a pleasure to be here with all of you. Mr. Chairman, Ranking Member Murray, Chairman Alexander, Senator Schatz, it is an honor to be here with all of you. I appreciate all of your attention to these critical issues.

As you correctly said, Mr. Chairman, there is a lot of common ground in the work that we do together. I want to thank you for your leadership on the passage of the Workforce Innovation and Opportunity Act, which is a game-changer for businesses and job-seekers alike.

I want to thank you for your continued commitment to apprenticeship and a career in technical education, veterans' employment. There is so much that we have in common, and I look forward to continuing that work together.

As we prepare for the final 10 months of the administration, it is worth reflecting on where we have been, where we are, where we need to go.

As you know, President Obama inherited an economy in freefall. In the 3 months before he took office, the economy hemorrhaged roughly 2.3 million jobs. Seven years later, we have made tremendous progress climbing out of the worst economic crisis in a generation.

We are now in the middle of the longest streak of private sector job growth on record—6 straight years, to the tune of 14.3 million new jobs. Unemployment is down from 10 percent to 4.9 percent. Auto sales reached a record high last year.

So while we have undeniable unfinished business, including lifting real wages, ensuring shared prosperity, we have made undeniable progress.

I am proud of the department's important role in this progress. Our work is critical to fortifying the basic pillars of the middle class: education and training that allows you to move up the ladder of success, affordable and accessible healthcare, a fair day's pay for a hard day's work, a roof over your head and a mortgage that will not go underwater, and the opportunity for a secure and dignified retirement.

PLANS FOR THE FISCAL YEAR 2017 BUDGET REQUEST

These pillars took a beating during the Great Recession, but I have never felt more confident in the resilience of our economy, our workers, and our employers. I believe our fiscal year 2017 budget request will help us continue our efforts to sustain the recovery.

So, for example, despite a major decline in the number of long-term unemployed, there are still 2.2 million people who have been

out of work 27 weeks or more. To get them the help they need, we want to continue to strengthen the Reemployment Services and Eligibility Assessment program, which has a proven return on investment.

Our budget builds on the increased investments made by Congress last year, adding \$70.9 million for a total of \$185.9 million. These dollars will expand services to all veterans receiving benefits through the Unemployment Compensation for Ex-Servicemembers, as well as one-third of the UI (Unemployment Insurance) claimants most likely to exhaust their benefits and become long-term unemployed.

I am grateful for the Congress' overwhelming bipartisan support in passing the Workforce Innovation and Opportunity Act and providing the resources to make the promise of that new law a reality. Our 2017 budget builds on this foundation by bringing the WIOA (Workforce Innovation and Opportunity Act) formula programs to their fully authorized amount while continuing the 15 percent Governor set-aside for statewide activities that I made great use of as a State Labor Secretary.

Apprenticeship has been one of the cornerstones of our work force development efforts, because, as Senator Murray correctly points out, studies have shown that a \$1 Federal investment has a \$27 return. So the \$90 million that you added to the budget for apprenticeship has the potential for almost a \$2 billion return.

We want to make sure apprenticeship is available in every ZIP Code. To that end, we paid the largest ever Federal investment in apprenticeship last year, and we are not only expanding it in the traditional areas, we are diversifying it, places like Zurich Insurance Company now leading the charge to make claims adjuster apprenticeship programs and building that model out, making sure it is available in IT, so much momentum.

Apprenticeship is the other college, except without the debt, and we want to continue those efforts. We look forward to working with you on the reauthorization of Perkins, because there is so much relationship between the apprenticeship conversation and the CTE conversation, Mr. Chairman. So I am very excited about those potentials for synergy.

The mission of the department is not to just help people find good jobs, but to ensure strong labor standards to give them the best possible quality-of-life. So as a result, for instance, our Wage and Hour Division has been able to secure back wages totaling nearly \$1.6 billion for 1.7 million workers, and we are requesting a total for all of the enforcement offices of \$1.9 billion to continue to safeguard the health, safety, wages, working conditions, and retirement security of our workers.

PURSuing AN ACTIVE REGULATORY AGENDA TO PROTECT WORKERS

We continue to pursue an active regulatory agenda in this space, in consultation with all stakeholders, including Members of Congress. We are working, for instance, on the overtime rule, which we submitted to OMB for final review earlier this week. It stands for the simple proposition that if you work extra, you should be paid extra.

We also strongly support the Murray-Scott minimum wage bill and appreciate, Senator Murray, your leadership in that area.

I believe it is a false choice to suggest that we either have economic growth or workplace safety. We must have both. That is why our Occupational Safety and Health Administration is close to issuing an updated rule that will save lives by significantly reducing worker exposure to silica.

In the retirement context, we know that the Ozzie and Harriet era of defined benefit plans has been largely evolving into a world of defined contributions and IRAs. We need to make sure that when people are making decisions, that they are getting the advice they need. As Jeff Bogle, the founder of Vanguard said, when you put your customer's interest first, it is great for your customers and it is great for business.

So those are areas that we are working on, and I have had the privilege of making a lot of housecalls in this job, Mr. Chairman. Last summer, I met a man named Bruce Ives in Missouri who had lost his job, having been laid off. He was 60 years old. He was not sure he was going to get another job. But I often refer to the Department of Labor as Match.com. We help connect jobseekers who want to punch their ticket to the middle class with employers who want to grow their business.

So we were able to enroll him in a program called ReBootU, which helped him get computer programming skills that led to a job making \$36 an hour as an IT analyst at a hospital.

So I have seen those inspiring stories, but I have also seen folks who are still struggling: the fast food worker in Detroit who had slept in her car with her three kids the night before I met her, the school bus driver in Connecticut who had to take her newborn onto her bus route because she did not have paid leave, the foundry worker in Buffalo I met with last week who has silicosis.

These are the challenges that keep me up at night. In the 309 days that remain, and I do count the days, but I want to make sure I make every day count.

I look forward to working with all of you to make sure that we build an America that works for everybody. Thank you, and I look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF HON. THOMAS E. PEREZ

Chairman Blunt, Ranking Member Murray and members of the Subcommittee, thank you for the invitation to testify today. I appear before you with a great sense of optimism and pride—not just about what has been achieved in these past 7 years, but about the direction we are headed in the future. I am especially proud of the Department's role in helping shape this future—a future of opportunity and shared prosperity, a future of robust job growth and a thriving middle class, a future where workers nationwide get the skills and training they need to receive a fair wage without risking their health or safety.

The 2017 President's Budget reflects this sense of optimism and provides the resources necessary to address the unfinished business of this recovery. It builds on 7 years of investments that have helped us climb out of the worst economic crisis in generations. The Budget supports the President's vision of an economy that works for everyone—one where your zip code doesn't determine your destiny; one where a full-time job pays a living wage; one where a lifetime of work leads to a dignified retirement; one where America's businesses are on a level playing field with their international counterparts; and one where job security also means that the workers are safe from unlawful discrimination, retaliation, and workplace hazards.

We've come a long way since the darkest days of the Great Recession. We've now experienced 72 months of private sector job growth, with the unemployment rate down to 4.9 percent, the lowest level since February 2008. Yet this recovery is not reaching every community and every household. Too many people are finding opportunity beyond their reach. Too many people, no matter how hard they work, can't get by, let alone get ahead. Some people have given up hope, leaving the job market completely. Others have settled for part-time employment when they want and need a full-time job. Many youth—especially those who grew up in poverty—do not see hope for the future. We have accomplished a lot together, but there is still more work ahead. The Department's fiscal year 2017 Budget will allow us to do that work, supporting bipartisan investments made to date and proposing new investments that meet important needs.

TRAINING AMERICANS FOR JOBS OF THE FUTURE

In my two and a half years as Secretary of Labor, we have made significant progress in building a training system that invests in the workforce of today and tomorrow. The Department worked in 2014 with the Vice President and other agencies to conduct a thorough review of America's training programs, to make them more job-driven and more responsive to employers' needs. I'm grateful for the bipartisan leadership in Congress that led to passage of the Workforce Innovation and Opportunity Act (WIOA), which we are hard at work implementing. We have lifted up apprenticeship as never before, making the largest-ever Federal investment in this learn-while-you-earn model and appreciate Congress appropriating resources that will allow us to continue expanding apprenticeships. We know more now than ever about what works in job training—we need to foster partnerships between the workforce system, employers, workers, intermediaries and others so that we are preparing workers for in-demand jobs. We need to be data driven and meet the diverse needs of our workforce. The Department of Labor, with our partners throughout the Administration and the States, is leading the process of making these important strategic changes.

Our employment and training programs served over fifteen million people in the Program Year ending June 30, 2015. The reforms supported by WIOA—like accountability for business engagement and new requirements to measure and report additional program outcomes—are tools that help us identify what is working, fix or end programs that aren't effective, and provide good information to workers so they can select training programs that are effective. The Department's staff has been working tirelessly, and in strong partnership with colleagues at Education, HHS, and elsewhere, to support and implement WIOA's alignment of employment and training programs, so we can provide more effective services with maximum impact. In fiscal year 2016, Congress appropriated additional resources for a number of WIOA programs. The fiscal year 2017 Budget builds on this foundation by bringing the WIOA formula programs to their fully authorized amount while continuing the 15 percent Governor's set aside for statewide activities. The Budget also includes resources for additional staff to help all States and localities implement WIOA, as well as technical assistance to States to improve the quality of services provided to participants. An investment of \$40 million will help States track longitudinal educational and employment outcomes of WIOA participants, so we can know what services are most effective. In fiscal year 2017, we are also proposing modest increases specifically to assist dislocated coal industry workers and to pilot ways to better serve Native American youth who do not live on reservations.

Apprenticeship is one model where we have evidence of substantial success. Apprenticeships offer a path to the middle class, as well as the opportunity for trainees to earn while they learn. Much of apprenticeship's success is attributable to the strong connection between the trainee and the employer and, in many cases, the strong partnership between management and labor. Those who finish their program secure an average starting salary of \$50,000, and over the course of their careers they earn \$300,000 more than their peers who did not participate in an apprenticeship program. Since the President launched the American Apprenticeship Initiative in 2014, we have 75,000 more apprentices in training, a step towards the President's goal of doubling the number of apprentices. Over 165 employers and other organizations have joined the Department's LEADERS program to be champions of the apprenticeship model. The Department's Registered Apprenticeship College Consortium, now 239 colleges and 976 training programs strong, make it easier for apprentices to earn college credit. I am appreciative of Congress appropriating \$90 million in fiscal year 2016 for apprenticeship grants, and the fiscal year 2017 Budget continues this investment. The Budget also proposes \$2 billion in mandatory funds for

an Apprenticeship Training Fund that will provide grants to States and regions to bring more employers to the table in providing high-quality apprenticeships.

Apprenticeship, like most successful workforce programs, depends on partnerships. To scale successful partnerships, we are requesting \$3.0 billion in mandatory funding to create an American Talent Compact. This mandatory competitive funding would create regional partnerships between workforce boards, economic development organizations, employers, and educational institutions to train workers for in-demand jobs. It would give employers better forums to communicate their skill needs and help educators better understand the job market, so they can tailor their courses, certificates, and degrees accordingly. We anticipate being able to train and place 90,000 people per year through this program.

The Job Corps program has trained nearly 2.7 million people since its inception more than half a century ago. The program was created to open doors of opportunity for at-risk young people from diverse backgrounds, giving them the tools to change course and reach higher rungs on the ladder of opportunity. We now have Job Corps centers in every State, the District of Columbia and Puerto Rico. In recent years, the centers have been collaborating more closely with businesses and community colleges. The credentials students earn are industry-recognized, increasing the value to both the students and employers. Nearly 80 percent of Job Corps graduates successfully start careers, including in the armed forces, or enroll in higher education or advanced skills training. But we are also looking to improve the program in the coming years. The Department is committed to producing innovation and continuous improvement within the Job Corps program. We recently released a solicitation to pilot an innovative approach to the Job Corps model at the Cascades center in Washington, and we are preparing for additional pilots in the future. The Department will also launch a major external review of the program beginning in 2016, with the goal of positioning the program for continued success.

Strengthening student safety and security is a top priority. We have initiated a National Safety Campaign—Standup for Safety—that includes increased staff training, more intensive center oversight and a requirement that all centers review and strengthen their security procedures. Job Corps has also worked with our students and contractor community to support a student-led Youth 2 Youth: Partners for Peace initiative, designed to address youth-on-youth violence, aggression and bullying. We also know we need to make additional investments in mental health counselors and other personnel, as well as structural upgrades to better provide safer, more secure and stable learning environments at Job Corps centers nationwide—the Budget invests in both of these areas.

Since around one in seven Americans between the ages of 16 and 24 are out of both school and work, the Administration is proposing a comprehensive approach to put these individuals on the path to getting a diploma and connecting to postsecondary education and jobs. WIOA also takes an important step forward in addressing this problem by directing that at least 75 percent of Youth formula funds be used for out-of-school youth, while also calling for additional investments for this disconnected and vulnerable population. The Budget proposes \$5.5 billion in mandatory funding to help engage young people in the workforce and set them on a path to a better future. Of this, \$3.5 billion will be used to provide paid work opportunities—bolstering young people's resumes and giving them the opportunity to gain useful work experience. These youth will also be given the means and support necessary to complete a high school degree or its equivalent, as well as assistance with financial literacy. In addition, \$2 billion will go to local governments in communities struggling with high rates of youth disengagement, high school dropouts and youth unemployment. These resources will help communities locate and reengage youth, providing them with counseling, support services, education and employment opportunities.

As we build a more integrated, demand-driven job training system, we must use data to understand the labor market. The Bureau of Labor Statistics (BLS) is the principal Federal statistical agency responsible for measuring labor market activity, working conditions and price changes in the economy. These data are invaluable to decision-makers. To better understand what is happening in the workplace, the Budget includes, among other resources, funding for the first year of activities for a Survey of Employer-Provided Training, which will fill a key gap in knowledge about the workforce system. The Budget also covers inflationary costs to ensure no diminution in the quality of the Bureau's core surveys.

Data on training, careers and jobs should also be more easily accessible. Every year, millions of people begin a post-secondary education. While we know that this can be a crucial investment in one's future, many people choose a school or education track with little information about job placement rates, sometimes leading to thousands of dollars of debt without meaningful job opportunities. We want to em-

power workers to make smart time and money investments. Thus, we propose \$500 million in mandatory funds for a Workforce Data Science and Innovation Fund that will invest in state data systems so they are able to create easy-to-understand scorecards about outcomes, like job placement, earnings, job tenure and other indicators of success. That way, workers can better compare one program to another and make informed choices about which program is best for them. The Department will also work with the Departments of Commerce and Education to develop new standards, analytical data sets, and open source data products on jobs and skills, so that researchers can do deeper analysis. This type of information will give consumers of education and training the best chance to build a successful career.

SUPPORTING OUR VETERANS AND LONG-TERM UNEMPLOYED

Despite giving years of their lives to our country, far too many veterans struggle with unemployment and even homelessness. The Veterans' Employment and Training Service (VETS) helps veterans and separating servicemembers transition to a good civilian career, starting with a robust and revitalized 3-day Employment Workshop that is required for every separating servicemember. These workshops are part of a comprehensive veterans' employment support program, which is anchored in our American Job Centers across the country.

The Homeless Veterans Reintegration Program (HVRP) helps transition homeless veterans into meaningful employment. The Department's fiscal year 2017 request includes an increase of \$12 million to fully fund this program at the authorized level, allowing us to serve more veterans who have struggled mightily in making the transition to post-military life. Our most recent data show that over 68 percent of HVRP participants who completed the program obtained jobs making an average of nearly \$12 an hour. We are eager to expand on this success.

We know the number of long-term unemployed—among both veterans and civilians—remains too high. We can and should be doing more to reach those left on the sidelines during the economic recovery. The data show that people who are out of work for longer periods of time have more trouble finding jobs. The Department seeks to reduce long-term unemployment by continuing to invest in the evidence-based Reemployment Services and Eligibility Assessments (RESEA) program. In fiscal year 2017, the Budget builds on the increased investments made by Congress last year, including an additional \$70.9 million for a total of \$185.9 million. These dollars will expand services to all veterans receiving benefits through the Unemployment Compensation for Ex-Servicemembers, as well as the one-third of Unemployment Insurance (UI) claimants who are most likely to exhaust their benefits and become long-term unemployed. Research shows that each dollar invested in these services yields approximately \$2.60 in benefits savings, thanks to shorter unemployment duration.

Unemployment is sometimes caused by unnecessary barriers that a worker faces when he or she has to move. The Department's efforts at developing industry-recognized and portable credentials have helped increase labor mobility, but different States often have a wide variety of licensing rules for the same occupation. By simply moving across a State border, trained professionals with years of experience sometimes have to pay high licensing fees or spend months redoing coursework to obtain a job for which they already have the skills. The Budget proposes to build on the resources provided by Congress in fiscal year 2016, investing \$10 million in fiscal year 2017 to identify and address areas where occupational licensing requirements are creating an unnecessary barrier to labor market entry or labor mobility. This investment will be particularly useful to transitioning service members, military spouses, formerly incarcerated individuals and dislocated workers.

SUPPORTING WORKING FAMILIES

As some people struggle with retraining or recertification, others working full-time, minimum wage jobs are still unable to make ends meet. No matter how hard they work, they fall further behind. Many of these people need public assistance and visit food banks just to sustain their families. Often, they are one setback away from financial devastation. The current Federal minimum wage of \$7.25 per hour is insufficient to support a family.

The value of the minimum wage, which has not increased in almost 7 years, has failed to keep pace with increasing costs of basic necessities. Raising the minimum wage is good for workers, their families and the economy. When minimum wage workers have more money in their pockets, it spurs consumer demand, with that money pumped back into the economy. Congress hasn't taken action, but 18 States and the District of Columbia have raised their minimum wage since President Obama called for an increase in his 2013 State of the Union address. Workers on

many Federal contracts also now receive higher wages, thanks to an Executive Order signed by the President. Yet there are millions more who continue to struggle. In one of the richest countries in the world, no one working full time should live in poverty.

American workers also struggle with the difficult choice between caring for a new baby or sick family member and a paycheck that the family desperately needs. While the Family and Medical Leave Act allows workers to take unpaid leave without losing their jobs, many families simply cannot afford to take the time off. The United States is the only industrialized Nation that fails to offer workers paid maternity leave. Paid parental leave empowers families and produces better outcomes for children. The Department has given out grants to States to research the feasibility of paid leave, and the fiscal year 2017 Budget proposes a \$1 million increase to expand these efforts. But we can do more. To encourage more States to enact paid leave legislation, the Budget includes \$2 billion in mandatory funding for a Paid Leave Partnership Initiative. Under this initiative, the Department would provide funding for up to five States to launch paid leave programs. States that choose to participate in the Initiative would be eligible to receive funds for the initial set up and 3 years of benefits. The Budget also proposes legislation that would allow Federal employees six weeks of paid administrative leave for the birth, adoption, or foster placement of a child. An investment in healthy families is an investment in our Nation's future.

PROTECTING WORKERS, WAGES, AND RETIREMENT SECURITY

At the Labor Department, we reject the false choice between economic growth on the one hand and worker protections on the other. While most employers play by the rules, there are too many cases where workers are cheated out of their hard-earned wages or forced to endure an unsafe workplace. At the Labor Department, we are more strategic than ever before about cracking down on wage violations, enforcing workplace safety, and protecting the retirement savings of your constituents who have worked their whole lives to build a nest egg. In doing so, we both protect workers and create a level playing field for law-abiding employers.

Our worker protection agencies have helped recover \$1.6 billion in back wages owed to over 1.7 million workers since 2009. We have prevented catastrophic falls (which lead to days of lost productivity and large workers' compensation payments), reduced workers' exposure to harmful and cancer-causing agents, and awarded over \$150 million to whistleblower complainants. We have made progress in addressing unequal pay for equal work; helped workers with disabilities receive reasonable accommodations; and helped applicants who were denied jobs because of racial discrimination. We have trained small businesses and thousands of workers on mitigating high-risk safety and health hazards. In 2015, we helped mine operators achieve the lowest number of fatalities ever, with underground respirable dust levels in coal mines falling to an all-time low. We have recovered more than \$1.7 billion affecting nearly 700,000 benefit plans and 190 million plan participants.

I am proud of this work. The Budget includes \$1.9 billion so we can continue meeting our responsibilities to safeguard the health, safety, wages, working conditions and retirement security of American workers.

To protect America's workers, we need to make sure their employers compete on a level playing field in the global economy. As part of the Administration's trade agenda, the Bureau of International Labor Affairs (ILAB) is on the front lines helping to ensure that our global trading partners adhere to agreed-upon labor standards, preventing foreign businesses from gaining an unfair advantage on the backs of workers. The Budget includes a \$15 million funding increase for ILAB to promote consistent, effective enforcement of the labor provisions of free trade agreements. And we also seek the restoration of \$5 million in grants, which were reduced in fiscal year 2016 appropriations, to continue (among other activities) preventing the worst forms of child labor.

Protecting workers' retirement plans is a cornerstone of our work, especially given an aging population and the decline of defined benefit pensions. Planning for retirement used to be simple, but today one out of three workers do not have access to a retirement savings plan through their employers. Contractors and temporary employees are ineligible to participate in employer-based plans. And many workers who move to a new job are forced to manage a number of retirement accounts from previous jobs. Careers may be mobile, but some retirement accounts and savings plans are not.

The Budget includes \$100 million for a mandatory funding proposal to provide grants to States and nonprofits to test innovative, more portable approaches to providing retirement and other employment-based benefits. The goal is to encourage

the development of a new model that workers can take from job to job and that can accommodate contributions from multiple employers for an individual worker. The Budget proposes legislation that will allow multiple unrelated employers to come together and form pooled retirement plans, lowering the cost and burden for each employer. In addition, small employers who auto-enroll employees in a retirement plan would receive a tax credit to offset administrative expenses. Until legislation is enacted, we have also taken administrative steps to promote savings. The Department has proposed regulations and issued guidance to facilitate States' efforts to create their own retirement plans for private sector employees. The budget request for the Employee Benefits Security Administration (EBSA) also includes an increase of \$6.5 million to pilot different approaches to increasing retirement plan coverage in States.

The Pension Benefit Guaranty Corporation (PBGC) acts as a backstop to insure pension payments for workers whose companies or plans have failed. Both PBGC's single-employer program and multiemployer program are underfunded, with combined liabilities exceeding assets by \$76 billion at the end of 2015. Premium rates remain much lower than what a private financial institution would charge for insuring the same risk and are well below what is needed to ensure the solvency of PBGC. To address these concerns, the Budget proposes giving the PBGC Board the authority to adjust premiums and directs the Board to raise \$15 billion in premiums in the budget window only from the multiemployer program, given the single-employer program's improving financial projections. This level of premium revenue would nearly eliminate the risk of the multiemployer program becoming insolvent over the next 20 years.

The budget request for the Wage and Hour Division provides resources to enforce laws that establish the minimum standards for wages and working conditions in workplaces across the United States, particularly in industries where workers are most at risk and are least likely to assert their rights. The Budget also expands funding for efforts aimed at ensuring that workers receive back wages they are owed, as well as funding to crack down on the illegal misclassification of some employees as independent contractors. Misclassification deprives workers of basic protections like unemployment insurance, workers' compensation, and overtime pay, and it undercuts employers who play by the rules while their competitors skirt their obligation to provide wages, benefits, and social insurance.

The Occupational Safety and Health and Mine Safety and Health Administrations (OSHA and MSHA) enforce safe and healthful working conditions for America's workers. Across the two agencies, the Budget provides more than \$992 million for these activities. That includes funds for OSHA to bolster the agency's ability to enforce safety and health standards; provide compliance assistance to employers and vulnerable workers; and administer more than 20 whistleblower laws that protect workers from discrimination and retaliation when reporting unsafe and unscrupulous practices. The Budget will also allow OSHA to enhance safety and security at chemical facilities, and it will provide MSHA with the resources it needs to conduct statutorily required mine inspections and enforce laws that protect miners who report safety or health problems.

Finally, the Office of Federal Contract Compliance Programs (OFCCP) enforces equal opportunity and affirmative action requirements covering Federal contractors and subcontractors. OFCCP ensures that their job applicants and workers do not face discrimination because of their race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status; or because they inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants. The fiscal year 2017 Budget request for OFCCP would allow the agency to continue its current work, while also creating two Skilled Resource Centers and continuing modernization of the core Case Management System. The implementation of the targeted Skilled Resource Centers will allow OFCCP to better align its investigative skills trainings for existing and new compliance officers with geographically concentrated business sector industries. The dedicated funding for the Case Management System would support the continued improvement of OFCCP's enforcement efforts. It will assist in the standardization of the Department's Digital Government Integrated Platform, which is designed to modernize legacy systems within the Department; to support enterprise data analytics and mobile data applications; and to enhance staff productivity and efficiency.

IMPROVING DATA-DRIVEN DECISION-MAKING, CREATING EFFICIENCIES, AND PROGRAM REFORM

In recent years, the Department has been striving to increase the productivity and efficiency of its own workforce. We believe our mission-driven focus and data-

driven performance work have borne fruit. The Department's staff is becoming more effective at their jobs, and this has led to significant improvements in the Department's rankings of best places to work. The Budget includes a number of investments to continue improving the Department's ability to serve the public, increase DOL employee effectiveness, streamline processes and enhance agencies' ability to target enforcement efforts.

The Department continues to work to improve its IT management. Over the past few years, we have consolidated nine separate IT infrastructure components into one consolidated system. Within this system, the Department is implementing a consolidated platform, which will support information-sharing and improve the efficiency and effectiveness of the Department's workforce. The Department's IT Modernization budget includes an increase of \$33 million to further these efforts and to address the security of our systems.

Also, several agencies' budgets—including the Office of Labor-Management Standards (OLMS), the Office of Federal Contract Compliance Programs (OFCCP), and the Office of Workers' Compensation Programs (OWCP)—include proposals to upgrade case management or claims processing systems. The goal is to improve the agencies' enforcement targeting, enabling them to better identify those employers who are violating the law. OWCP's 20-year old Longshore and Black Lung claims processing systems are out of date, and the FECA claims system is approaching the end of its life. OWCP is looking to move toward a unified claims-based system that would facilitate more effective delivery of benefits to claimants across the four programs OWCP administers, while also yielding savings in future years. The OWCP Interactive Voice Response proposal will bolster these efforts by providing a more seamless experience for callers, including improved response from a mobile workforce, leading to shortened processing times. Similarly, OLMS' 15-year-old, obsolete IT system jeopardizes mission critical functions. Modernization would ensure continuity of operations; enable sharing of enforcement data; expand online reporting; improve transparency of union, employer, and labor consultant finances and activities; and dramatically enhance web search and navigation.

Thanks in large measure to the work of our Chief Evaluation Office, the Department has been held up as a leader in data-driven decisionmaking. The Budget includes an increase for the office, while also continuing to allow for the transfer of resources from agencies for evaluations of their programs.

The Budget also proposes several program reforms. Unemployment Insurance provides critical income support to unemployed workers. After cutbacks in coverage by States and due to broader changes in the economy, about one out of every three unemployed workers receives UI benefits. The Budget includes cost-neutral reforms to both strengthen and modernize the UI program. These reforms will provide additional benefit access to part-time workers, low-wage workers and workers who must leave a job for a compelling family reason. The Budget also helps unemployed workers return to work more quickly; reforms UI to help prevent layoffs; makes the UI program more responsive to economic downturns; and shores up the solvency of State UI programs. Lastly, it proposes to establish a wage insurance program to help workers make ends meet if a new job pays less than the old one.

We are also once again proposing changes to the permanent labor certification program. This is the process we use to certify that an employer seeking to obtain employment-based permanent residency for a foreign worker—also called a Green Card—has adequately tested the U.S. labor market, demonstrating that there are insufficient U.S. workers available and qualified for the job, and that no adverse effect on wages and working conditions of U.S. workers will occur. These conditions must be met under the Immigration and Nationality Act before a Green Card is issued. One of our most critical budget proposals would authorize legislation allowing the Department of Labor to establish and retain fees to cover the costs of operating the foreign labor certification programs, helping us improve the speed and quality of certification processing. The Department has heard from businesses across the country that support a filing fee to expedite the process. There is precedent for such authority: under the H-1B visa program for temporary employment in specialty occupations, we use a portion of the proceeds from employer fees to process labor certifications. There are no backlogs in processing applications under that program, despite a 76 percent increase in applications over the last 5 years. The inability to charge a fee to support more efficient application processing and program administration hurts businesses, workers and our economy.

CONCLUSION

During the time that I have served as Secretary, and throughout the 7 years of this Administration, the Labor Department has done important work to expand op-

portunity to more workers, families and communities. Our efforts have played an indispensable role in the Nation's economic recovery. Continuing and strengthening those efforts requires a strong but responsible budget, which makes smart investments in our Nation's workers, job-seekers and retirees. America has no greater economic asset than our people, our human capital. This President's Budget empowers our people, giving them the tools they need to thrive in 2017, and for years and decades to come.

Mr. Chairman, thank you again for this opportunity. I look forward to discussing our budget request with you and all members of the committee, and I'm happy to respond to any questions you may have.

Senator BLUNT. Thank you, Mr. Secretary. Obviously, I look forward to asking my questions. I was ready to do it even before we let you make your opening statement.

Job preparation, the opportunity for families to move forward to better jobs and stronger families is something we are all for, something we need to work for. And there are times when we are not going to agree, but I think we do agree on the importance of that goal.

NEW REGULATORY PLANS

Right now, back to my comments about regulation, there are more than 70 new regulations on the department's to-do list for the last few months of the administration, regulations that, frankly, this administration will not have to live with the results of. Somebody else is going to have to live with the results of those regulations.

As we are talking today, there are three new regulations pending at the Office of Management and Budget that, conservatively, according to the agency's own estimate, would cost the economy about \$3 billion. I think at least one of these, the one on silica, has not been subjected to a full small business impact process in over a decade, and even that was associated with a different version of the rule.

Mr. Secretary, can you talk to me a little bit about your process of developing the cost, and I may come back to that topic a little later, but also developing the cost-benefit analysis of a rule that might add a little bit to the workplace, but the benefit not equal to the cost of implementing that rule? How do you all evaluate that at a time when the economy is struggling to move forward?

Secretary PEREZ. Whether it is silica, conflict of interest, or the Section 503, which is related to the employment of people with disabilities and veterans, we have the same approach, which is you build a big table, an inclusive table, and you take the time necessary to listen and to learn from people, and you make sure you bring a healthy dose of humility to the process.

So look at the silica rule, for instance, 2 weeks ago 80 years ago, Frances Perkins held a conference at the Department of Labor on the dangers of silica. We have the grainy video of her opening remarks. So we have known about silica as a killer for literally 8 decades or more.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

So what we did in this process was not only to follow the SBREFA (Small Business Regulatory Enforcement Fairness Act) requirements, but we had an extensive pre-notice comment process

of interactions with NIOSH (National Institute for Occupational Safety and Health) and others, because we wanted to understand the science. Then we had the formal rulemaking, which included lengthy hearings at the Department of Labor. And it has been a very, very extensive and inclusive process.

CONFLICT OF INTEREST

The same thing in the conflict of interest process. I pride myself on the fact that it is really important to listen to people and to conduct and subject our rules to very vigorous analysis.

I would note this is an op-ed that Secretary Tom Ridge wrote in the Wall Street Journal. "Business and Government Working Together. Really." It was in the aftermath of our 503 regulation where there was a lot of concern that we were imposing quotas on employers to employ veterans and people with disabilities. What he said was that Labor Department's rulemaking process should be a model for how government can work with stakeholders in crafting regulations that are practical and effective. That is, Secretary/Governor Tom Ridge. That is what we aspire to do.

Senator BLUNT. I think we are for practical and effective, and we work with you hard to do things that create new pathways for veterans to get their skills recognized in the workplace and get to the workplace in new ways, and to have that recognized.

OVERTIME REGULATION

But on one of the rules, the overtime rule, for instance, I hear a lot from higher education about that rule, the not-for-profit sector, more than I do from the for-profit sector.

The Missouri Baptist Children's Home was in and they said almost none of their counselors are at the \$50,000 level, but they are available all the time. They are not called all the time, but they are available all the time. We do not see how they are going to be able to comply with the overtime rule.

I had the people from Southeast Missouri State University in this week who believe that the rule will cost them approximately \$2.7 million, \$2.5 million of that is the impact on nearly 31 percent of their faculty and staff, people in the residence hall, the RAs in the residence halls.

We do not seem to see the kind of exemptions for an RA in the residence hall or a counselor at the Missouri Baptist Children's Home. Are you looking at those problems and how particularly not-for-profits and educational institutions will deal with this rule?

Secretary PEREZ. The short answer is yes, we received comments there. Before we went to the formal rulemaking, we did about a year of informal outreach. I personally participated in that.

We met with retailers. We met with folks in the nonprofit world. We met with folks in higher education. We met with SHRM, the Society for Human Resource Management, and many other people, because we wanted to learn about what their experiences were.

We wanted to learn how they adjusted to the 2004 changes that were significant that the Bush administration made, so we could go to school on that.

We have gotten comments from nonprofits supporting the rule. There have been comments from nonprofits expressing concerns

about the rule. We are taking all the comments, roughly 300,000 in total, into careful account as we craft a final proposal. I would be glad at the conclusion of the process to come and brief anyone and everyone who is interested, so that you understand the decisions we made, the changes we made, and the various ways in which compliance can be obtained.

Senator BLUNT. We may very well ask you to do that. I am glad you are willing to. I will not ask now, but the question I have is, jumping one step from \$23,660 as the amount of money that if you were below that, you were subject to overtime and you were not an exempt employee, in one step to \$50,440. I do not want to take other people's time for you to answer that now, but I may come back to why that kind of increase is necessary in one regulatory jump.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Secretary Perez, I was really pleased that Chairman Blunt and I were able to fund the new apprenticeship grant program in the 2016 appropriation bill. As we both talked about, that is going to put tens of thousands of workers on a proven path to middle class, and it will also address employers' needs, and I hear that all the time, for skilled workers.

We know that registered apprenticeships are effective. They are business-driven programs in predominately high-growth industries. You mentioned several—IT, healthcare, advanced manufacturing—all of which face critical worker shortages today.

UPCOMING PLANS FOR GRANT PROGRAMS

I really appreciate that you have sought some really wide input from Congress and from stakeholders as you put the final touches on the grant solicitation. I wanted to ask you today if you could talk a little bit about your plan for these grants, how many States, how many employers do you anticipate will be involved? And how long will it be before we can actually see this put slots created on the ground?

Secretary PEREZ. First of all, thank you for your leadership on a bipartisan basis. This money is going to be well-spent. Apprenticeship, as I said before, really is the other college except without the debt. We are transforming apprenticeship in this country. I think as a Nation, to our detriment, we devalued career and technical education and apprenticeship over a period of decades. Now that is turning around in a bipartisan fashion.

With the \$90 million, we really have four basic aims in mind. Number one, we want to build up the State apprenticeship system, so we are going to be sending out grants to States. There is wide variability in the State apprenticeship infrastructures across the country. Some are very-well developed, South Carolina, being an example. I have been down there, and they have been going gangbusters for a while.

Others literally have one or two people. That is their apprenticeship office. They want to do more, but these resources are going to help them build that capacity.

Secondly, we want to diversify apprenticeship. We want to make sure it is available to women. We want to make sure it is available

to a greater extent to veterans, to people in underserved communities.

I did an event with former Mayor Nutter of Philadelphia introducing IT apprenticeship to kids graduating from the Philadelphia Public School System. When my iPhone goes on the fritz, I go to my 13-year-old. I do not call Apple. So we are taking that fluency that young people have and translating it into a middle-class career.

Then finally, we need to fortify the Federal infrastructure in apprenticeship because as we expand the State infrastructure, and I am excited that that is happening, we need to make sure that we keep up, because we are an important stakeholder in that as well.

So that is the \$90 million.

We also had \$175 million in the H-1B—

Senator MURRAY. When will we start to see some of those grants actually being announced?

Secretary PEREZ. Imminently. We did outreach to appropriators, to States. We had really constructive conversations with your staff, because we wanted to know what you thought would be the best use of that money.

We are acutely aware that time is of the essence. We want to synergize these investments with the \$175 million that has already been awarded and on the street. So we are moving with great alacrity.

Senator MURRAY. Good. Okay. I appreciate that. I want to keep working with you on that.

ILAB'S ROLE IN ENFORCING RULES UNDER TRADE AGREEMENTS

There has been a lot of talk about trade. Over the last year, we had to fight to get the ExIm Bank reauthorized and the Trans-Pacific Partnership agreement is still pending. As you know, my home State of Washington is the most trade-dependent State in the Nation.

So we not only want to have a seat at the table to make sure that trade deals are fair and strong when they get negotiated, we also want to make sure they actually get implemented in a way that works for workers and businesses, because it is one thing for a trade deal to include strong protections when it comes to labor and the environment, for example, it is another for those protections to actually be enforced.

Your Bureau of International Labor Affairs (ILAB) has an important role in enforcement and supporting clients with the rules that exist for these trade agreements. I wanted you to explain to us today how the bureau promotes compliance with labor provisions of existing trade agreements, and what kind of outcomes are you achieving?

Secretary PEREZ. ILAB is a critically important part of our trade enforcement. I spend a lot of time with them.

So for instance, the Colombia Free Trade Agreement (CFTA), we have an ILAB employee who is literally working in the State Department in Bogota right now helping to implement the labor provisions of CFTA because it is really important not only for them to get the laws right, and we help them actually write those laws in Colombia, now we are helping them implement those laws and

build the infrastructure necessary to ensure compliance, because it is one thing, as you correctly point out, to have the words on a sheet of paper in the trade agreements. It is another thing to make sure we give them full force. The ILAB office does this.

We do a lot of work in the context of child labor, for instance. So we have worked very collaboratively with Nestle and other major multinationals to eliminate child labor in Ghana and Cote d'Ivoire, and other places where cocoa is being grown with the assistance of child labor.

So ILAB punches above its weight, and it is a critically important part of our trade enforcement. I appreciate your support for it.

Senator MURRAY. Thank you very much.

Thank you, Mr. Chairman.

Senator BLUNT. The chairman of the full committee, Chairman Cochran.

Secretary PEREZ. Good morning, Mr. Chairman. It is nice to see you again.

Senator COCHRAN. Mr. Secretary, welcome. We appreciate your being here and cooperating with our committee as we review the budget request from the administration for the Department of Labor.

NEW OVERTIME RULE

We have some people back home calling me and writing me, telling me about how a new rule being considered by the administration will affect their businesses in severe ways.

The Department of Health, for example, let us know that their employee threshold would drop from 69 percent to 11 percent exempt status. Those are words of art, I know, and I am reading them, so I will not misrepresent this.

But this regulation, my folks down home are saying that it took into account no regional differences in cost-of-living or other expenses that relate to jobs in our State. It did not consider the adverse effect that it would have on charity organizations or religious establishments or public universities and colleges.

What is your reaction to that?

Secretary PEREZ. Mr. Chairman, I assume you are referring to the overtime rule, and both during our informal outreach and during the formal notice and comment process, we have heard a lot about the issue of regional disparities, how you craft a rule that can apply to the entire country, which the current overtime rule is a rule of general application, so that is not a new issue. The minimum wage at the Federal level, that is an issue of general application. We have heard from nonprofits, and we have heard from higher education.

We reached out to them before we actually did notice and comment, because we knew that those are going to be areas of concern. So we wanted to proactively reach out, and we got a lot of feedback before the notice and comment. We got a lot of feedback during the formal process. I can assure you that we are taking careful account of that.

When we reach the conclusion of our rulemaking process, I look forward to briefing you and anyone else on decisions that were

made and the roadmap for compliance, and how we took into account these concerns.

Senator COCHRAN. Thank you very much.

Thanks, Mr. Chairman.

Senator BLUNT. Senator Schatz.

Senator SCHATZ. Thank you, Mr. Chairman.

Mr. Secretary, thanks for all your good work.

Secretary PEREZ. Good morning.

Senator SCHATZ. Good morning.

FIDUCIARY RULEMAKING

You have taken a lot of heat for your proposal to end conflicts of interest in the retirement investment space. Can you tell me, under the current system where the 1975 fiduciary rules are in place, what happens when someone walks into a brokerage firm to get financial advice, what kinds of protections they have, and how would that interaction potentially change when your rule is finalized?

Secretary PEREZ. Sure. The rule that most folks who provide advice—by the way, I have great respect for people who provide this advice. This is not a case about people with malice in their heart. This is a case about the malalignment of the incentives.

What I mean by that is someone providing advice has a duty to make sure that what they are telling you is suitable for you. You can have four different options that are “suitable” and one option of those four increases the commission at the expense of the consumer, and that is still suitable. In my opinion, that is not in your best interest. That is the problem.

The CEA (Council of Economic Advisers) has quantified in a portion of the industry that this is a \$17 billion problem. If you get 1 percent less, if you invested \$10,000 and it was there for 35 years, and you had 1 percent less return because of conflicted advice, you would have \$27,500 at the end of that 35-year instead of \$35,000. So your nest egg diminishes by 25 percent. Compounding compounds the problem of conflicted advice. That is what we are getting at.

Our times have changed. The Ozzie and Harriet world of defined benefit plans are increasingly becoming rare. When people have to make decisions, I think that we should treat this context no differently than lawyers and doctors where they have a duty to look out for your best interests. That is the North Star of this rule.

Senator SCHATZ. Thank you for that. I heard from some in the banking community about whether or not this would actually accidentally include bank tellers, individuals in the customer service space. Someone walks into a bank and says I am interested in establishing an IRA or savings account.

My sense of the rule, having read it, is that there is not a strong basis in the language of the rule, but I know through the public comment period that you have made modifications. I just want to be assured that this is narrowly tailored to the problem that you are talking about.

Secretary PEREZ. We received a lot of comments regarding the rule, including comments such as the one that you have received.

We have received a lot of comments about the best interest contract that is in the proposed rule.

As I said to folks, our North Star in this enterprise is an enforceable best interest standard. We have heard from a lot of folks in the industry who say I agree with that North Star. I think there is a more linear path. Our response to them is show us that path, give us your ideas in specificity.

We have gotten a lot of those ideas. I look forward, at the end of this process, to sitting down again with any and all of you to show you, here were the proposals, here is the feedback we have gotten, here are the changes that we made. That is what notice-and-comment rulemaking is all about, listening, learning and improving. I am confident that I will be able to sit down with you at the end of this process and explain the changes that we made that we think will produce an even better final product.

Senator SCHATZ. Thank you.

NATIONAL DISLOCATED WORKER GRANTS FOR HAWAII

Mr. Secretary, as you know, the last sugar plantation in the State of Hawaii is shutting down in central Maui at the end of this year. They are doing their last harvest. It is about 700 jobs.

We have been working with the department on a number of avenues to try to provide some help in the very difficult transition. I know the ILW has a pending application for TAA (Trade Adjustment Assistance). I would not ask you to comment specifically on that. But what I would like you to do is offer your continued commitment to work with the people of Maui, the County of Maui, the State Government, and the delegation, to make sure that we do whatever we can for these dislocated workers.

Secretary PEREZ. The short answer is absolutely. I want to thank you. You were dogged. You contacted me literally the moment that this news started to break, and we have been working very closely with your office and with the workers and the employers.

We have discussed a National Dislocated Worker Grant and other tools in our toolbox that we can use to help mitigate the impacts.

So thank you for your dogged leadership, and I assure you that we look forward to continuing to work with you and all the affected folks and businesses.

Senator SCHATZ. Thank you.

Senator BLUNT. Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman.

Welcome, Mr. Secretary.

Secretary PEREZ. Good morning, Senator. It is good to see you.

IMPACT OF OVERTIME RULE ON UNIVERSITIES

Senator ALEXANDER. We hear a lot of talk from all of us, including the administration, about keeping tuition down and lowering college costs. Yet I have a letter here, which I ask consent to put in the record, from all of the Tennessee independent colleges and universities. This is what Senator Blunt mentioned.

These are the private nonprofit institutions in our State, most of them church schools, smaller schools. The nonprofit colleges and

universities across our country attract about 15 percent of all of our students. This is what they wrote about the new overtime rule.

One of our members, the letter says, calculated the first year impact would translate to a \$1,000 per student increase in tuition, a \$1,000 increase in tuition from a rule from the Department of Labor. It says it is expected the change will cost each 4-year campus a minimum of \$1.3 million.

Another rural campus noted the change would impact 133 employees for a total of \$3.2 million. If they choose, however, to reclassify those employees to an hourly schedule from salary status, a mere 5 hours of annual collective overtime would cost \$1.1 million and 10 hours would cost \$2.3 million.

Mr. Secretary, we cannot keep imposing new good-sounding regulation costs on any segment of American society, but if the President is going to go around and I am going to go around and all of us are going to go around saying we want to keep college costs down, how can you justify an overtime rule that might raise the cost of college by \$1,000 per student?

This organization, of all the independent and private nonprofit colleges in Tennessee, says they do not oppose increasing the current minimum salary threshold. They think that might even help make sure that white-collar exemptions are not abused. But the proposed salary threshold is simply too high, too fast, and the increased threshold would result in the inappropriate classification of many employees.

So my question is, why would you impose on independent colleges and universities a rule that the colleges say could raise tuition by \$1,000 per student? And while you are answering that question, maybe you could tell me when you think this rule will become final.

Secretary PEREZ. Let me answer your second question first. We sent this over to OMB earlier this week, Monday or Tuesday, so their review has commenced. So I do not know exactly when that will be completed, but we expect it to be completed within the next 45 to 90 days, something like that.

On the issue of higher education, again, before we put the rule out, we had outreach with higher education to hear them. We had outreach with nonprofits to hear how this rule would impact them and what they do.

In 2004, when a new rule was put into place, there was impact on retail, on higher education, on nonprofits——

Senator ALEXANDER. Mr. Secretary, this is a \$1,000 per student. This is a prestigious group of every single college in Tennessee that is a private nonprofit college. That is an outrageous number.

Secretary PEREZ. Well, again, we have received a lot from higher education.

When we have discussed minimum wage, we have heard a lot of feedback about the impacts of minimum wage.

When we did the coal dust rule, we also heard a lot of impact. What we have learned in the implementation of the coal dust rule is that we now have had 99 percent of our new tests in the coal dust rule that have been under the new——

Senator ALEXANDER. You just think they are wrong. You think they are wrong?

Secretary PEREZ. Well, I do not know whether they are right or wrong. I am simply saying that in the coal context, concerns were raised that we would never be able to meet this new standard. The good news is that they have been able to meet that new standard. We take very seriously—

Senator ALEXANDER. I do not mean to be rude. I have another 40 seconds. I just want ask one more question about rules.

Secretary PEREZ. Sure.

EEOC PROPOSED RULE ON EMPLOYEE DATA-COLLECTION

Senator ALEXANDER. Yesterday, the Equal Employment Opportunity Commission held a public hearing on a proposed rule that would increase by 20 times the employment data it collects from 61,000 employers on their 63 million employees, increase by 20 times the employment data it collects from 61,000 private employers on 63 million employees.

I introduced a bill to suggest that before the EEOC collects this massive amount of data from private employees that it first collected from all the Federal employees and see how much time it takes.

Now, this is a rule that in one form your department planned to issue at one point. You were going to do it through the Office of Federal Contract Compliance Programs.

Since the EEOC is proposing to collect this kind of data from all private employers, will you now withdraw your similar rule to collect that same kind of data from Federal contractors?

Secretary PEREZ. Yes. We are working with EEOC on that initiative, because we got feedback that given the EEOC's work, it is more efficient to work through the EEOC and the EEO-1 form. So the answer to your question is yes.

Senator ALEXANDER. If I had more time, Mr. Chairman, I would ask, don't you think it would be a good idea to give the Federal Government a dose of its own medicine by collecting all this information from all the Federal employers before we impose it on the private employers, but I do not have time for that question.

Senator BLUNT. Senator Cassidy.

Secretary PEREZ. Good morning, sir.

Senator BLUNT. Senator Cassidy, then Senator Capito, then Senator Lankford.

Senator CASSIDY. Yes, I was thinking I was after those two, so I was caught off guard.

ADVICE GAP CREATED BY UNITED KINGDOM FIDUCIARY RULE

The follow-up to the fiduciary rule that you and I discussed I think a while ago, at the time, when I asked whether or not the experience in England and Great Britain had been that when those restrictions placed upon advice for those with lower incomes, you mentioned a study which showed that not to be the case. Now, subsequent to that, I have been given more information, and apparently you have, too.

So subsequent of being given more information, and the information I have been given is that in the study you cited, there was still evidence that smaller investors no longer had access to advice.

For example, from the report that you mentioned, it says that steps need to be taken to make the provision of the advice and guidance to the mass-market more cost-effective. This is after they say that those who are upper income continue to get advice. Elsewhere, it speaks about the number of firms which have ceased to give advice requiring assets of an equivalent of \$142,000, 70 percent of advisers turned away low-income customers, et cetera.

You mentioned at the time, in your response to my question, that there had been a net increase of 500,000 advisers, or something such as that.

But the retort I have heard is that, yes, there are that many more advisers, but they are not advising those who are lower income.

There has been a subsequent report, which I have here, which again verifies this. This is by Her Majesty's Treasury, so the regulator himself, again along this line, that the lower income no longer have access to the advice and increasingly it is restricted.

Now that said, what are your thoughts on how I have posed this so far?

Secretary PEREZ. Senator, as you know, the U.K. proposal banned commissions. It imposed new licensing requirements.

The evidence that I have seen, and I personally traveled to the U.K., because I heard this question with sufficient frequency that I thought I am going to stop listening to lobbyists and go see it for myself. So I went to the U.K., and I met with the regulators in the U.K.

What they told me is that one of the most remarkable impacts of this has been a movement of funds away from complex instruments into more simple instruments, like index funds.

DIFFERENCES BETWEEN UNITED KINGDOM AND UNITED STATES FIDUCIARY RULES

Here is the nub of this issue. For most people in America, they have a pretty simple portfolio. They have saved a couple hundred thousand dollars through their hard work and grit. They do not need a complex instrument like a variable annuity. They need something simple, and that is what has happened in England. More people are getting the simple, low-cost, good-reward funds like—

Senator CASSIDY. Let me ask, because you have moved beyond, if you will, whether or not they are getting advice into whether or not they need advice. So that is actually a different question.

So the fundamental question we are told, not by lobbyists but by people who—put it this way, they work in the business, so you could say they are lobbying, but they are presenting their perspective. And the perspective is that they are no longer, under this rule, going to give advice to people who are lower income, period.

So, of course they move into index funds, because that will be all that is available, if you have no—so, in a sense, I am getting that you are conceding the argument that there will be fewer people giving advice, but you are saying that does not matter because they should not be in complex instruments requiring advice anyway.

Secretary PEREZ. I could not disagree more with your characterization, with all due respect.

I have made this offer to every Senator and every Member of Congress. I would love to bring in folks who are in the industry now. They are already operating by a fiduciary standard. They work with small investors, large investors alike. The thing they tell me is, to those who say they are going to leave the market if this rule is passed, please give them my email, please give them my phone number, because I have a business model that is enabling me to do good and do well.

I would love to have these folks come in, and I will get out of the way, because these are folks who are doing it right now. We have already a controlled experiment in America because, again, there are a subset of folks in this space who are our already fiduciaries. They are doing it, and they are doing well by it, so I would love to have them come in and——

Senator CASSIDY. I am out of time, but I will submit for the record a report from Her Majesty's Treasury that shows that an effort that is already being implemented there, which is similar in effect to that which is proposed here, has resulted in fewer people giving advice to this market and, therefore, less access to them for more sophisticated advice.

Senator BLUNT. Without objection.

[The report link follows:]

<https://www.fca.org.uk/publication/corporate/famr-final-report.pdf>.

Senator BLUNT. Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman.

Secretary PEREZ. Good morning.

Senator CAPITO. Thank you, Mr. Secretary. Good morning.

I wanted to talk about the item that was in the omnibus on the displaced worker training funds. There was an initiative that was placed in the omnibus that would give \$19 million specifically to assist dislocated workers in the coal industry.

DISPLACED WORKER PROGRAMS

I cannot begin to tell you how bad the situation is, particularly in the Appalachian region. We have lost since 2011 10,000 mining jobs. Along with that, it is estimated that for every mining job, there are another four jobs that go along with that. It is resulting in our State having the highest unemployment, if not the highest unemployment, the second highest unemployment and rising.

Our State budget is now over \$400 million in the hole. Boone County is laying off 70 teachers. It is just a desperate situation where we are.

So I would like to know specifically what you have done with these funds, what you are planning to do with these funds, where you are focusing. And I hope that I do not hear that we are going to have committees that are going down to have town meetings and talk about the problem.

Secretary PEREZ. No, I am a huge believer and supporter of the POWER Initiative. It has really helped to make sure that we help people transition.

Senator CAPITO. I would dispute that, but go ahead.

Secretary PEREZ. Well, there was \$19 million included in the fiscal year 2016 appropriation that has been used toward the POWER Initiative.

Senator CAPITO. How has that been used? That is my question. In what form?

Secretary PEREZ. Sure. You worked in the coal industry, you are laid off, we are now training you for the jobs of tomorrow.

Senator CAPITO. But where are you doing that? Do you know? Do you have a listing?

Secretary PEREZ. I will give you a listing of all the work that we are doing. I will provide that to you.

[The information follows:]

THE POWER INITIATIVE

The \$19 million included in the fiscal year 2016 appropriation for the POWER+ Plan are Program Year (PY) 2016 resources that will become available on July 1, 2016, so that amount has not yet been awarded. But in 2015, the Department committed \$20 million from its Dislocated Worker National Reserve to support the POWER Initiative, an intergovernmental effort to address the displacement of workers and communities that have relied on the coal industry. Investments made under the POWER Initiative are designed to support affected coal communities. Part of that support is ensuring that workforce development strategies are coordinated and integrated with economic development strategies to prepare affected workers for jobs with the area's high-growth and high-wage employers.

DOL funds committed to the POWER Initiative are awarded to impacted States as POWER Dislocated Worker Grants (POWER DWGs). These grants provide States and their local workforce area partners with necessary resources to temporarily expand their capacity to serve workers dislocated by changes in the coal industry. By the end of September 2016, the Department will have awarded a total of \$39 million in POWER DWG grants (\$20 million in PY 2015 grants and \$19 million in PY 2016 grants). Specifically, the \$19 million will be used to expand, where needed, previously awarded POWER DWGs and award additional grants the Department wasn't able to fund with its previously committed funds; it will also allow ETA to increase the maximum available grant amount for POWER DWGs to \$5 million from the current \$2 million, for both new grant applications as well as for previously awarded POWER DWGs. This larger grant amount will enable the grantees to conduct more comprehensive strategic planning efforts and provide reemployment services and training for more workers in the affected communities.

POWER DWG funds are available for award between July 1, 2015 and September 30, 2018. DOL's current investments under POWER include:

POWER DWG Grantee	Funding Requested	Funding Awarded (Initial Amount)*
Kentucky	\$2,000,000	\$1,098,800
Ohio	2,000,000	916,250
Virginia	1,965,730	1,965,730
Pennsylvania	2,000,000	2,000,000
Total	\$7,965,730	\$5,980,780

* DWG awards may be funded on an incremental basis, with an approved initial increment and an overall up-to award amount.

However, it is important to note that the POWER initiative is a subset of Dislocated Worker Grants, and other grants were also made to States to help address the needs of workers dislocated from the coal industry. Through our regular Dislocated Worker Grants, West Virginia has received \$10,728,278 to serve dislocated coal workers (subject to the same note that additional increases could be added incrementally upon this amount). The Department provided a briefing for Senator Capito on April 19, 2016, on this issue. Our discussion covered the interaction of the NDWG and POWER grants, and included discussion of some of the specific grants in the States. ETA is preparing follow-up documentation for the Senator on outcomes from a number of ETA grants and the formula funds that West Virginia receives, as requested.

The Department is requesting \$20 million for the POWER+ program in the fiscal year 2017 Budget.

Senator CAPITO. How many people have actually attended?

Secretary PEREZ. I would be glad to provide you with that specificity. I traveled with Chairman Rogers, who is obviously going through a similar thing, and I went to a company named BitSource that was in Pikeville. It was a training program that we were funding.

RETAINING DISLOCATED WORKERS

It is a company that is doing coding, computer coding. Everybody in the room was a displaced coal miner and they inspired me, Senator, because they were making a remarkable transition.

One guy told me that he had gotten a call the previous Friday from his old employer at the mine offering his job back, and he told them no because of this investment.

We were able to help basically start this up through investments like the ones we are doing in West Virginia as well. I would be happy to give you a briefing on this.

I grew up in Buffalo, New York. I watched jobs in the middle class get hollowed out. So for me, this is very personal. When I travel to Eastern Kentucky or West Virginia, for me, that brings back memories of Buffalo and my parents' generation.

So I am very committed to working with you. If there are areas where you think we are falling short in how we are delivering those services, I want to hear that, too, because everybody who has been displaced, I want to make sure we can get them the skills to do tomorrow's job.

Senator CAPITO. I appreciate that. My concern is that it is more of a pat on the head. Your industry is being destroyed. You are being displaced from your community, your job. There is a sense of deep pessimism.

You know, \$19 million sounds like a lot of money but to recover from something like this, not only will it take a long time, I would like to see specifically where this money is being spent, through what initiatives, through what training programs, how many people are being trained, how much assistance is being given.

Secretary PEREZ. We will be glad to come in and brief you.

Senator CAPITO. You are asking for another \$20 million for the next year.

Secretary PEREZ. I would be happy to. It was inspiring to be at BitSource. I walked away from there with an incredible amount of optimism, because folks were getting kicked in the gut and they were getting up, and they had a lot of grit and determination, and I want to make sure that we help them.

Senator CAPITO. Thank you.

Senator BLUNT. Senator Lankford.

Senator LANKFORD. Thank you.

Secretary, good to see you again.

Secretary PEREZ. Good morning, Senator. Good to see you.

RETROSPECTIVE REVIEW PROCESS

Senator LANKFORD. We talked before about retrospective review. It is one of the areas that the Department of Labor has focused in on, and we have had hearings. In the committee that I chair deal-

ing with regulatory affairs, we have had some Department of Labor folks in to talk about the process.

If my memory serves correctly, about 2011, there were 29 retrospective reviews that were going to be in process. Fourteen of those had been completed by the time of our hearing. I believe one more had been done, but only one has been done in the last 6 months.

What I am trying to figure out is, there are over 600 different rules that are out there. Not all of them rise to the level of needing retrospective review. I am trying to figure out, where is the process going on retrospective review on regulations within the Department of Labor? Are you looking back at some of these old rules and trying to evaluate them? And with only one done in the last 6 months, what is the progress in the coming days?

Secretary PEREZ. Let me give you a couple examples of what we are doing in this context. In our dust rule that we released last year, we built in a retrospective review of some of the new technology that we are requiring.

Senator LANKFORD. When you say you built in a retrospective review, you set the date when that will occur?

Secretary PEREZ. That begins on February 1, 2017. I think that was built into the rule.

The PERM rule, which is one of our immigration rules, one of the things when we were conducting our retrospective review—I think I may have talked to you about this when we were at the White House at that event.

Under the current rule, when you are trying to hire workers, you have to advertise in the Sunday newspapers. It is a very sort of 1970s kind of paradigm. So we have sent a proposed PERM rule to OMB—

Senator LANKFORD. I am going to run out of time. I have several questions. But those are all good. We have talked about that, but that was a year ago. What I am trying to figure out is some of the progress on these.

The targets seem to be slipping, as far as when they will be completed and when they will be done, and I want to try to see the progress of how we can keep the target dates from slipping again. With only one of these complete in the last 6 months, it looks like only one coming this year, I want to try to help the department continue to press on this.

If there is something that is missing on it, let us know, because going back and reviewing as you just mentioned with that rule, it is extremely important that we get things up-to-date and stay consistent with the original statute as well.

FRANCHISE RULE

I also want to get a chance to chat with you. You and I have swapped letters back and forth on a series of questions that we have and that Chairman Johnson and I have for the Homeland Security and Governmental Affairs. That is on this issue of Department of Labor and NLRB (National Labor Relations Board) cooperating together on the Franchise Rule and the communications ahead of time.

When we asked for initial documents on that, we had been told, hey, there are not initial documents. Then we find out later, well,

there may be a few documents. I sent a letter to you asking for all those documents. No documents were sent to me.

Then a FOIA (Freedom of Information Act) request from an outside group separate from me, they get a big dump of documents that looked to be very consistent with what we had asked for and were told there were not any documents.

So we get those same documents then from an outside group that had a FOIA request. Those reference other documents and other conversations that seem to be pertinent.

All we are trying to do is provide basic oversight between the Department of Labor and some of the communications they had on the Franchise Rule before it ever came out with NLRB.

All I want to know is, will you assure me we will get all the documents that we have asked for. It has not been a big giant laundry list. It is a very specific group of documents. We want to get all the responsive documents.

Can you assure me that we will get that?

Secretary PEREZ. Yes.

Senator LANKFORD. And not have to have an outside group do a FOIA request and then we get it after they do a FOIA on it.

Secretary PEREZ. I said yes, sir.

Senator LANKFORD. Terrific. Thank you. Do you have a time period on that, that you think that would come?

Secretary PEREZ. I believe we have sent hundreds of pages to date.

Senator LANKFORD. Wait. Nonresponsive hundreds of pages. The pages that came to us initially were that there was not anything. Then a FOIA request was sent, so we got the FOIA request information. What we are trying to follow up is to just make sure we really do have everything.

Secretary PEREZ. I will make sure you have everything.

Senator LANKFORD. Thank you. I would appreciate that very much. We just want to be able to do the task on it.

IMPACTS OF OVERTIME RULE

When we get into the overtime rule, let me just read a couple things to you, and this is the reason so many of us on this panel have the question about this and why this is so concerning.

Let me just give you a couple things, the concern that is happening in my State.

From one of the battered women shelters in my State, this is what the H.R. director said. She is a committee member of the YWCA battered women shelter and is concerned about the impact of changes the overtime regulations will have on their nonprofit organization and employees. All employees make less than \$50,000, except for top management. The impact of this new legislation could be catastrophic for payroll as employees will have to be moved from exempt to nonexempt status simply due to the salary base being proposed. That is from one of the battered women's shelters.

From the Counseling and Recovery Services of Oklahoma, they said about 80 percent of our work force will be impacted. The cost to meet the proposed regulations is expected to be in the hundreds

of thousands and will have a devastating impact to the community mental health industry overall.

From tribal governments, to hear from tribal governments who are concerned about this and the use of a single national salary threshold would adversely affect already limited revenues, especially for tribes in rural areas. They are very concerned about their people and about the Nation.

I can go on and on, from small-business owners, from those who work for senior adults.

The standard of the economy in Oklahoma and the standard of living there is very different than San Francisco and New York. And there are a lot of agencies, entities, and businesses in my State that are very concerned about this overtime rule. And they are watching it and understanding the devastating impact it will have.

We will follow up with questions for the record on that.

Secretary PEREZ. Thank you.

Senator BLUNT. We have time for a second round, and Senator Murray is going to start the second round.

Senator MURRAY. Mr. Secretary, I am really pleased that there has been a part of good progress on improving employment rates for our veterans. Thank you very much to your department for your efforts in that area.

HOMELESS VETERANS' REINTEGRATION PROGRAM

However, there is a lot more that needs to be done to help the men and women who served our country. At the heart of these efforts is our commitment to end veteran homelessness, which has declined sharply over the past 5 years, but it also includes helping these men and women find employment.

So I was actually really pleased that your budget includes a significant increase for the Homeless Veterans' Reintegration Program. Can you talk a little bit about how these services help to transition homeless veterans into jobs and what impact that will have?

Secretary PEREZ. Thank you for your question.

The budget request takes the Homeless Veterans' Reintegration Program to its authorized level.

I have had the privilege until recently of chairing the Inter-agency Council on Homelessness. I am very proud of the progress that we have been able to make to reduce homelessness generally, and reduce veteran homelessness, in particular.

These funds go exactly toward that end. We have been able to really forge partnerships with people like your wonderful work force system in Seattle with whom I have spent a lot of time. Homeless veterans receive customized employment and training services.

My wife works with homeless people here in the district, including many veterans. They have many different challenges, so it is not simply they need to brush up on a resume. They may have a substance abuse issue. They need to get housed because housing first will lead to good things after that.

So this program has been a linchpin, and we know that it works. We have had it studied, so we know there is a good return on in-

vestment. We want to scale it up, so that we can really reach our goal of zero veteran homelessness.

THE 503 RULE

Senator MURRAY. Okay. The department's Office of Federal Contract Compliance has a role as well in making sure that the rights of veterans in hiring and employment by Federal contractors are respected. Can you tell me about the progress being made there to protect veterans, particularly on the new rule, which some have suggested establishes employment quotas?

Secretary PEREZ. The 503 rule, I mentioned the piece by Governor Ridge, Secretary Ridge.

I never know whether to call him Governor or Secretary, Mr. Chairman. You have been both. You can give me some guidance someday.

But that rule has been indispensable in helping us help veterans get into the workplace. I am very proud of the fact that 34 percent of DOL's new hires are veterans and over 20 percent of our work force is now veterans.

Under the leadership of Pat Shiu, we have had a very collaborative approach to problem-solving.

One of the people that I met who led the charge in the litigation, which was unsuccessful, against us is now one of our strongest advocates and understands that, "You know what? As I look in my company"—and this person is a senior executive in a Fortune 500 company—"when I started looking behind the numbers, I realized that we had a lot of work to do, and I also realized that we are leaving talent on the sidelines."

So the veteran rules that OFCCP (Office of Federal Contract Compliance Programs) has been enforcing have really helped us move the needle on veteran employment. I want to thank you for your unwavering support on that issue.

Senator MURRAY. Thank you.

IMPORTANCE OF OVERTIME RULE

You have been asked a lot about the overtime rule here. I know everybody is anxious to see what it is and make sure that some of these stories could be real, may not be, whatever the rule is.

But I just want to ask you, talk to me about why you think it is important that we implement this rule and what you have seen out there that brought you to this.

Secretary PEREZ. I have met a number of people who are working 70 hours a week. They are the most important people in their organizations. I am not going to name names, but they are working at a lot of places that you go to, to get food or coffee or whatever. They have missed their kids' graduations. They have missed dinners. They have missed PTA meetings. They have done so because they are really dedicated to these jobs.

As a result of the 2004 rule, frankly, leverage was taken from workers and given to employers. "When was the last time you had a vacation?" And one of these managers said, "Vacation? For me, a vacation is a 40-hour week." Those were not my words. Those were his words, and they really stuck with me.

The overtime rule is, I think, an illustration of what happens when Congress does not index things, because you know what? When we have these conversations about the minimum wage and you hear about concerns about disruption, your proposal with Congressman Scott will eliminate that issue by indexing.

If we had simply indexed the 1975 threshold, today's threshold would be something like \$58,000.

Senator MURRAY. So your proposal is actually less than what it would have been.

Secretary PEREZ. If we had simply indexed, the proposed rule would be less.

So I think when you look at these issues, people are concerned about wages. We had a conversation about wages. When I grew up in Buffalo, New York, when my friends' parents were managers, they were in the middle class. There are a lot of folks who are managers doing responsible things, and they are no longer in the middle class. They are donating 20 to 30 hours of their time. I do not think that is fair.

Senator MURRAY. Thank you very much. I really appreciate that.

INDEXING EXEMPTIONS SALARY FOR THE OVERTIME RULE

Senator BLUNT. On the overtime rule, since we are spending some time on that, particularly in the not-for-profit sector, there appear to be real concerns, if you had indexed that \$23,660 in 2004 to any reasonable index I am aware of, you certainly would not go to \$50,440 today. Your belief would be I guess the \$23,660 was the wrong number, but these same jobs with same responsibilities, Mr. Secretary, have not more than doubled in their compensation in the economy we have seen.

Your contention is that the number you started with, the \$23,660, was the wrong number in 2004?

Secretary PEREZ. I do not want to get too specific right now, because we are in the middle of the rulemaking process, but I would simply note that indexing is not a new concept. Indexing Social Security benefits, if people did not have their benefits indexed—

Senator BLUNT. What do you think it would be if you had indexed \$23,660 over the last 12 years?

Secretary PEREZ. I do not have that exact answer. It would certainly be less than this. But we had if we had indexed—back in 1975 was when the rule was changed and there was a short test and a long test. That was \$250 a week, if my memory serves me. If you index that now, you would be at that \$57,000 or \$58,000 figure that I am talking to.

Again, I hope when Congress passes a minimum wage, they have an indexing provision, so we do not have to have this conversation, because it has an impact when you suppress wages for that long and then you have to catch up.

Senator BLUNT. When you set this number this high this quickly and suggest that one national standard makes sense, one national standard may have made some sense at the lower number. I think it just does not make sense here. And you have heard from Oklahoma and Tennessee and Mississippi and Missouri that these jobs, particularly in the not-for-profit sector, with responsibilities that

have people committed to a job maybe not onsite, but committed to be available, are out-of-touch with this number.

I am sure you are now anticipating that when the rule does come out, we will have a lot of discussions.

Secretary PEREZ. We have certainly heard that. We have heard your sentiment in the comment process. We have also heard Senator Murray's sentiment and others.

Senator BLUNT. Speaking of the direction of the committee, here is another example of a change in department policy that has a lot of impact that does not really have a rules change. This does not follow the Administrative Procedures Act.

RETAIL EXEMPTION

There was an OSHA (Occupational Safety and Health Administration) memo last year, July 22, altering the retail exemption application that had been in place for over 20 years for anhydrous ammonia, which is a farm fertilizer. In fact, in the current appropriations language, the language prohibited OSHA from enforcing that July 22, 2015, retail exemption memo unless they carried out a full rulemaking process.

Six days later, after the bill went into effect, the one that said you should not do this, OSHA issued a notice that it would start enforcing the memo on the first day of 2017. No rulemaking, no other language, nothing happening there.

Why would OSHA ignore the clear congressional intent here that you would have to go through a rulemaking process to make this change? The small retailers, your estimate is it would cost them about \$2,000 to comply. Their estimate is it would cost them about \$20,000 to comply.

But I think my first question is, why wouldn't you follow the specific intent of the appropriating language that you not do this without going through the rulemaking process?

Secretary PEREZ. With all due respect, Mr. Chairman, I think we did. What our announcement was was that we were extending the enforcement date to the end of this fiscal year to comply with the rider. That is exactly what the rider said, and that is exactly—

Senator BLUNT. So your memo would become the rule?

Secretary PEREZ. Pardon me?

Senator BLUNT. Your memo would become the rule?

Secretary PEREZ. No, what our memo said—you instructed us in the appropriations rider not to enforce this in this fiscal year. Our memo said that we will not enforce this in this fiscal year.

This issue is an outgrowth of the horrible catastrophe in West Texas where 15 people, mostly first responders, died in a horrific incident and—

Senator BLUNT. Anhydrous ammonia was not involved in that accident.

Secretary PEREZ. But the President's directive to us afterward was to make sure that we improve safety in chemical facilities.

There was an elementary school that got leveled, and thank God this occurred in the middle of the night or else we would have had hundreds of people—so we actually did do what we call a request for information. We did not simply come out with guidance.

We solicited feedback. We got feedback. We issued a guidance document, which we think is within our rights. That is subject to litigation. Whatever happens at the end of litigation, we will comply with.

Senator BLUNT. And it certainly is within our rights to put the same language in the bill again this time then that says do not do this beginning January 1, 2017, without going through a rule. I just do not understand why you want to continually resist the administrative rulemaking process with these memos and letters that have the impact of rules without having gone through the process of what it takes to make a rule.

CHEMICAL SAFETY BOARD RULES

The U.S. Chemical Safety Board says that there is no evidence that there has ever been an ammonia nitrate problem if the current rules were being followed.

Secretary PEREZ. Again, Mr. Chairman, we all have a shared interest in preventing another West Texas from occurring. I recognize that we both have that interest. We were in a situation where we got feedback, we solicited that feedback, and the cost of taking 2 years to solicit additional feedback or however long that process would take, I was frankly concerned that if we did that and during that period another, God forbid, incident occurred, then I would be at oversight hearings where I would be asked, why didn't you move faster? So I am a little bit damned if I do and damned if I don't on this one.

I appreciate that, and again——

Senator BLUNT. I appreciate your feeling that that might be where you are, but if the United States Chemical Safety Board says when the current rules are followed, there is no evidence there has ever been a problem, and when anhydrous ammonia was clearly not the problem that you are concerned about in that horrific accident. Nobody wants to see those accidents happen. My belief is that the current rules were not being followed there, based on what I read about this and understand.

But what you really do is add a substantial cost penalty to small retailers who have never had an accident, who follow the current rules, the current rules thought to be sufficient, and without going through the rulemaking process.

And while it technically does not violate the direction of the appropriations bill, the way we would I guess continue to express the will of Congress is every year prohibit you from doing something that you could have done properly by proposing a rule. The legislative bill did not say do not go through the rulemaking process. It said, in fact, you should go through the rulemaking process rather than not do that.

Chairman Cochran, do you have another question?

GULFPORT, MISSISSIPPI JOB CORPS CENTER

Senator COCHRAN. Yes, Mr. Chairman. I have a sore subject that I hate to bring up, because it has been hanging out here for 10 years, but I am going to bring it up again until I wear it out or I retire or run off or get run off.

Two years ago, we had a commitment from the Department of Labor, Secretary Solis, who was involved in this, in helping draft suggestions to resolve issues about a \$18 million Gulfport, Mississippi, Job Corps Center that was destroyed or labeled destroyed by somebody.

We submitted language to authorize funding to restore, rebuild this historic structure. There was a feasibility study done, a report estimating costs. There was a Mississippi Department of Archives and History report that was done. They awarded an environmental effects study.

Anyway, several steps have been taken to try to get back this department asset, which is a Federal investment sitting around for several years now.

Anyway, I would like for you to look into the situation, see what you can recommend about the restoration and rebuilding of the Gulfport Center in Gulfport, Mississippi.

Secretary PEREZ. Absolutely. I believe that we submitted last week a report required by you, and I think we briefed your staff or spoke to your staff about this. Then I think we are in the process of doing two separate procurements. One is for the NEPA study, the National Environmental Protection Act study, and then the structural engineering analysis.

Whenever there are issues of historic preservation, I used to be a local government elected official, whenever we had those historic preservation issues, one thing I learned from that was that the process took seemingly forever, and it was an undeniable source of frustration for everyone.

I certainly appreciate the amount of time that has been spent, and your dogged persistence on this is something that we very much appreciate. So I can assure you that we are doing everything in our power to move forward, and we will continue to work with you and your staff. Your staff has been, as usual, superb on this issue, Mr. Chairman.

If there are things that you think we should be doing that we have not done, I hope you or your staff will bring it to our attention, because, again, this should not take this long, I know. But when we are talking about local processes and compliance with a bunch of different State, Federal, local provisions, and then listening to the community, which is obviously very important, it takes the amount of time that it has.

So I look forward to continuing to work with you.

Senator COCHRAN. Thank you very much for your seriousness of purpose. I look forward to helping celebrate the completion of the center.

Secretary PEREZ. I would like to go to that grand opening—re-opening.

Senator COCHRAN. Thank you.

Senator BLUNT. Before I go to Senator Cassidy, I think you mentioned earlier that I had been Governor and Secretary. I was Secretary of State. I was not Governor. My son Matt was.

Secretary PEREZ. I am sorry.

Senator BLUNT. I did not want somebody to suggest that I allowed my resume to be inflated.

Secretary PEREZ. My bad, Mr. Chairman. I apologize.

Senator BLUNT. I am of the view that maybe being Governor is the best job in politics, and I think they all put on their stationery from then on Governor. So Governor Ridge is where I would go, if I was going to talk of Governor Ridge or Secretary Ridge.

Senator Cassidy.

Senator CASSIDY. Mr. Chair, you asked my questions, so I yield back.

ADDITIONAL COMMITTEE QUESTIONS

Senator BLUNT. Any other questions?

Well, thank you, Mr. Secretary. The record will stay open for 1 week for additional questions. I am sure there will be some.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

DEPARTMENT OF LABOR RULEMAKING PROCESS

Question. Each year, I hear from small businesses owners, large businesses, and anyone who is trying to recover from the recession about the onerous regulations being implemented by the Department.

Can you please speak to the Department's process for developing a cost-benefit analysis and how it is justified to move forward with rules that will be extremely onerous to the U.S. economy?

Answer. Each of the Department's rulemaking efforts is conducted in line with governing laws and executive orders, including Executive Order 12866, which requires the use of regulatory impact analysis in certain circumstances. Costs and benefits are quantified, monetized, or analyzed qualitatively consistent with OMB's guidance in Circular A-4.

Over the course of this Administration, the benefits of the regulations that the Department has implemented far outweigh the costs. Like you, I also talk to business owners in my travels, and many thank us for helping to level the playing field so that they are not forced to compete with other businesses who take the low road in dealing with their workforce. When we level the playing field for business owners that want to comply with the law, that is good for the economy.

FIDUCIARY EXPANSION RULE

Question. Mr. Secretary, it is important for the Department to have a full understanding of the adverse economic effects on businesses and employers that these rules have. For example, regarding the proposed fiduciary expansion rule, Morningstar (a highly-respected financial information firm) said that while this rule officially has a high-end annual cost estimate of \$1.1 billion, Morningstar believes the low-end estimate to be more than double that.

What accounts for such a large discrepancy between government estimates and those of outside experts?

Answer. While developing the final rule and the exemptions, the Department also reexamined its cost estimates, in light of public comments and other information available at the end of the comment period. The new cost estimates are published along with the final rule.

While the Morningstar report in question was made public after the close of the comment period, the Department reviewed the report. The Department's cost estimates did not change as a result of its review of the Morningstar report.

The Morningstar report considered the proposed rule, not the final rule and exemptions. The report exaggerated the negative impact the proposed rule would have had on commission-based product sales and the final rule and exemptions have been streamlined and clarified to better accommodate such sales. In addition, Morningstar focused more on the rule's effect on financial firms' revenue, not their compliance cost. Much of that revenue would translate directly into savings in investors' pockets who will pay less for financial products and services.

Question. Does the Department of Labor, who has not previously regulated on this particular issue, fully understand the implications of the proposal?

Answer. Since 1978, the Department has been charged by Congress with interpreting and issuing exemptions from the prohibited transactions provisions of both ERISA and the Internal Revenue Code (IRC). Since that time, the Department has issued a number of regulations related to the IRC prohibited transactions provisions, as well as a number of prohibited transaction exemptions. The Department's role regulating fiduciary investment advice to IRAs long predates the 2010 Proposal—it was established 35 years prior and was recently explicitly recognized and expanded by the Pension Protection Act in 2006. The new rule and exemptions fit within the Department's scope of responsibility to interpret the IRC's prohibited transactions provisions and issue prohibited transaction exemptions in connection with investment advice regarding IRAs.

Under ERISA, the Department is responsible for creating rules and regulations that protect America's workers when they put their retirement savings in the hands of brokers and other financial advisers. ERISA gave retirement investments uniquely tax-favored status and special fiduciary protections from advisers' conflicts of interest. These tax benefits promote retirement savings and the fiduciary protections protect the workers who rely on these assets for their retirement security. In addition, there are many transactions involving retirement savings (such as advice to purchase some insurance annuity and bank products) to which Federal securities laws do not apply, but ERISA and the Internal Revenue Code (IRC) do. We want to make sure that people who provide fiduciary investment advice can comply with all the rules and their obligations and have therefore designed a rule that will neither undermine nor contradict the securities laws. Our aim is for consumers to receive the full protection of ERISA, the IRC and the securities laws.

The Department undertook incredibly thorough and extensive public outreach over the past 6 years, culminating in an extended public comment process, four days of public hearings, and an additional public comment period that ended on September 24, 2015. We received feedback on the proposal from thousands of commenters. The Department took into consideration the full range of public comments received in finalizing the rule.

ECONOMIC ANALYSIS OF FIDUCIARY RULE

Question. Will the Department provide a more rigorous economic analysis of the rule and any changes made in the final version, or does it plan to rest this rule-making on the initial, potentially-fatally flawed, economic analysis?

Answer. The economic analysis of the final rule and exceptions is a detailed evaluation of the impact of the final rule. The Department received feedback on our proposal, including our economic analysis, from thousands of commenters. Over the course of 6 years, we heard from hundreds of thousands of members of the public in the form of emails, petitions, hand-delivered comments and hearing testimony. The proposed rule and exemptions that we published in April 2015 were much more robust than the version we proposed in 2010. The final rule and exemptions published in April 2016, including a final regulatory impact analysis, is an even stronger and more comprehensive product than the 2015 proposal due to the constructive feedback we have received in over 5 months of comment period, four days of public hearings, and almost 100 meetings.

The Department's final economic analysis reflects careful consideration of the entire public record, and it refines and extends the analysis previously provided with the proposal. It confirms the conclusions of the initial analysis: that adviser conflicts cause avoidable, serious harm to retirement investors, and that the stronger consumer protections included in the final rule will benefit those investors at a reasonable cost.

IMPACT OF EXPANDING THE DEFINITION OF FIDUCIARY

Question. In 2011, the Department stated that its own rules that apply to fiduciaries are at least in part responsible for over \$100 billion of investment losses every year, a far greater number than the Administration's \$17 billion figure that has been publicized. So by vastly expanding the definition of a fiduciary, the concern is that this number could be increased significantly under the proposal. But the official DOL (Department of Labor) economic analysis does not contain any discussion of this issue. It doesn't even mention the prior work by DOL.

What work has been done on this issue and why wasn't it included in the official DOL economic analysis?

Answer. Both the 2015 proposed and 2016 final regulatory impact analyses refer to the 2011 rule and analysis. In 2011, the Department estimated retirement investors make errors totaling more than \$114 billion annually, and the Department's 2011 rule would extend access to affordable fiduciary advice and reduce those errors

by between \$7 billion and \$18 billion annually. The Department stated in 2011 that the errors could be at least partially attributable to ERISA's prohibited transaction rules, which preclude various advice arrangements. The 2011 rule increased access to fiduciary advice by implementing an exemption that allowed fiduciary advisers to engage in otherwise prohibited transactions, subject to strong protective conditions that ensure their advice is impartial and in investors' best interest. As the Department stated in the 2016 analysis, if instead the investors affected by the 2011 regulation would have received conflicted investment advice, the benefits of the exemption forecasted in 2011 would be much lower and possibly negative.

In contrast, the Department's analysis for the new rule and exemptions focuses on the cost of investor errors attributable to conflicts of interest in non-fiduciary advice, which are estimated to be as much as \$17 billion annually for only one segment of the IRA market (broker-sold front load mutual funds). The 2011 analysis has no relevance to estimating such costs. In our regulatory analysis for the 2016 rule and the exemptions, the Department also estimated the benefits to recipient investors of impartial advice rendered by persons subject to a stringent fiduciary standard.

The Council of Economic Advisors estimated the cost of such errors related to conflicted investment advice total \$17 billion annually in the IRA market. The Department's Best Interest Contract Exemption, which likewise permits fiduciary advisers to engage in certain types of otherwise prohibited self-dealing (subject to a different set of protective conditions), will further extend, beyond what was achieved with the 2011 rule, the availability of fiduciary advice in retirement investors' best interest.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION RETAIL EXEMPTION RULE

Question. I am concerned about a change in Departmental policy that will have the impacts of a rule change but side-steps the full checks and balances process required in the Administrative Procedure Act: the OSHA (Occupational Safety and Health Administration) memo of last July 22nd altering the retail exemption applicable for over 20 years to anhydrous ammonia, a farm fertilizer. In fact, the fiscal year 2016 Omnibus incorporated language that prohibited OSHA from enforcing the July 22, 2015, "retail exemption" memo unless OSHA carried out a full notice-and-comment rulemaking. Six days later, OSHA issued notice that it would start enforcing the memo on the first day of fiscal year 2017, ignoring the language's other requirements.

Why has OSHA ignored the clear congressional intent to conduct a proper rulemaking on the "retail exemption" before increasing the scope of the Process Safety Management regulation?

Answer. OSHA's announcement that it will not enforce the July 22, 2015, "retail exemption" memo through September 30, 2016, is consistent with the language of the report accompanying the fiscal year 2016 appropriations bill, which specifically prohibits enforcement of the retail exemption during fiscal year 2016 absent formal rulemaking and other steps. In addition, OSHA recently began the process for potential rulemaking. On May 5, 2016, OSHA issued a background document to small employer representatives as part of the Small Business Regulatory Enforcement Fairness Act (SBREFA) process. OSHA included a definition of "retail" in its Background Document to the SBREFA panel being convened to consider the impact on small businesses of possible amendments to the PSM (Process Safety Management) standard. This is the first step in a process that could potentially result in the inclusion of definition of "retail" in an NPRM.

Question. OSHA has stated that it estimates it will cost agricultural retailers about \$2,160 to comply with the rule, but I am hearing from many retailers that it will cost more than ten times that amount to comply—about \$25,250 on average. How did OSHA come up with its estimate?

Answer. OSHA assumed that most facilities affected by the retail memo are already compliant with EPA's Risk Management Program (RMP) Level 2. RMP Level 2 contains requirements nearly identical to eight of the requirements in PSM. Generally, compliance with RMP Level 2 constitutes compliance with those eight overlapping PSM elements. To be fully compliant with PSM, facilities now in compliance with RMP 2 need only implement those additional elements of a PSM program not already part of their existing safety management system. OSHA's estimate reflects the additional incremental costs of those PSM elements not already required under RMP 2.

PROPOSED INCREASES TO DEPARTMENT OF LABOR STAFFING LEVELS

Question. The Department has proposed a very large increase in staffing. The budget request calls for 779 new Federal employees at the Department. 318 of those

are for the Wage and Hour Division alone, increasing the number of employees by over 18 percent. Staffing at Wage and Hour has already increased by over 44 percent during the current administration. The staff in the Departmental Management account would increase by 149 people or 10 percent.

Given the increasing pressure on the budget, how can you expect the Subcommittee to increase agency bureaucracy again at these levels?

Answer. In formulating the budget, DOL carefully identified areas where increased staffing was needed to fulfill our mission. Among many critical investments, we are rebuilding our enforcement capacity, addressing the challenges of monitoring and enforcing international trade agreements, and otherwise ensuring we have the resources to fulfill the mission of the Department.

The Budget includes additional funding to ensure that all of the Department of Labor's (DOL) worker protection agencies can meet their responsibilities to defend the health, safety, wages, working conditions, civil rights, and retirement security of American workers, and level the playing field for law-abiding employers. As you note, the Wage and Hour Division (WHD) is one area where we have added staff. The WHD's mandate is vast yet the resources are relatively small—even with the modest staffing increases since 2009. With less than 1,000 investigators, it is charged with protecting over 135 million workers in more than 7.3 million establishments nationwide. Given limited resources to effectively achieve the mission, WHD has adopted a strategic enforcement approach to achieving compliance. WHD prioritizes efforts in industries where the problems are greatest, where workers are least likely to exercise their rights, and where WHD can have an impact on compliance. To make this approach most effective, WHD requires a workforce that can address compliance issues at the industry level through a combination of enforcement, stakeholder engagement and compliance assistance. Further investments are necessary to establish WHD as a modern, data-driven enforcement agency that is equipped with the necessary combination of personnel, technology, and equipment, and to effectively carry out its mission.

In addition, the Departmental Management account includes several program agencies where staff increases are proposed. In one notable example, the Budget proposes 14 additional staff for the International Labor Affairs Bureau to make sure American businesses are on a level playing field with their international counterparts. Since 2012, the U.S. has signed free trade agreements with Panama, Colombia, and South Korea. New ILAB staff will continue to improve the monitoring and enforcement of labor provisions of free trade agreements and trade preference programs, investigate allegations of trade agreement labor violations, and protect the interests of American businesses to ensure that they are not being unfairly undercut by foreign businesses. These additional staff will also act as the principal liaison with other governments on labor issues, assist in the negotiation of new labor commitments, and provide the research and analysis necessary to address the labor rights concerns in beneficiaries of U.S. trade preference programs.

The Department of Labor appreciates the support that it has received from the Committee and looks forward to working with you on these additional requests. With these investments, the Department will be able to enhance our ability to protect the wages and working conditions of workers across the U.S., monitor international trade agreements, and fulfill the critical mission of the Department. While your support has allowed the Department of Labor to grow and improve upon its outcomes, there is still more that we can accomplish together.

FRAMEWORKS FOR RECIPROCITY FOR OCCUPATIONAL LICENSES

Question. The Omnibus included a new \$7.5 million program requested by the Administration to establish a consortium (or multiple consortia) of States to begin the analysis and development of frameworks for reciprocity or other forms of portability for certain occupational licenses. This will help reduce unnecessary barriers to mobility and re-employment for thousands of dislocated workers, transitioning servicemembers, military spouses, and others. An additional \$10 million is requested for fiscal year 2017. It is my understanding that the Department plans to quickly implement the initiative. I appreciate the Department's work in this area and look forward to hearing about the first stages of this effort once implemented.

Mr. Secretary, can you tell the Subcommittee about your expectations for this initiative and what might be accomplished?

Answer. We envision that one or more national or regional organizations will work with one or more consortia of States to review and analyze occupational licensing requirements and development recommendations to make progress toward two main objectives designed to achieve greater labor mobility and access to employment opportunities for qualified jobseekers:

- Identify unnecessary licensing criteria to ensure that existing and new licensing requirements are not overly broad or burdensome and that they do not create unnecessary barriers to labor market entry; and
- Improve portability and reciprocity provisions for selected occupational licenses across State lines.

Question. I am hopeful that the Department will also foster discussion and agreements about recognition of some categories of military training. Separating servicemembers face similar barriers that inhibit civilian recognition of their military training. Do you think progress is possible in that area as well?

Answer. Transitioning Servicemembers (TSM), as well as military spouses, are both populations where there is a particular opportunity to streamline pathways to licensure through recognition of prior learning, as well as reduction of administrative barriers, and we envision both of these activities being part of this project. The soon-to-be-released report required by Section 237 of the VOW Act of 2011 lays out a military to civilian training gap analysis framework that can be used as a blueprint for other States to follow. The report summarizes the results of a demonstration project conducted with six States that was specifically designed to identify civilian occupational skills for licenses or certification requirements that could be satisfied (in whole, or in part) by military training and experience; and to accelerate the attainment of civilian credentials by veterans with appropriate skills and experience. The report on the pilot lays out a strategy that State stakeholders can undertake and adapt on their own. The report is highlighted as a potential technical assistance resource for awarded organizations and State consortium participants.

Question. How much time do you anticipate being necessary until participating States can achieve something?

Answer. We anticipate that the project period will provide a full 3 years to expend the funds. We anticipate that it could take at least 18 months after award for appreciable results to be realized at the State level.

Question. How many States do you expect to participate initially?

Answer. While we cannot be certain of the level of response, we hope to see a few strong consortia of three or more States that would each bring cross-agency teams and unite around shared interests and shared challenges to work together to improve portability and access to employment for all qualified individuals. The additional investment of \$10 million requested for fiscal year 2017 will allow for extending this initial effort.

WORKER PROGRAMS GOLD STANDARD EVALUATION RESULTS

Question. I understand that early results of a major departmental evaluation—the Worker Programs Gold Standard Evaluation (WGSE)—will be available shortly. This is one of the Department’s most rigorous studies of the effectiveness of the Department’s job training programs in recent years.

Please describe any preliminary results you may have received about effectiveness, cost versus benefit, and the general training approach.

Answer. The Workforce Investment Act (WIA) Gold Standard Evaluation is a rigorous evaluation to assess the effectiveness of intensive services and training offered to customers through the WIA Adult and Dislocated Worker formula-funded programs. (Twenty-eight randomly selected Local Workforce Investment Areas [LWIAs] participated in the evaluation so the study findings are representative of the national programs.) The evaluation is ongoing, but to date, the Department has issued two reports:

- 1) Evaluating National Ongoing Programs: Implementing the WIA Adult and Dislocated Worker Programs Gold Standard Evaluation ¹
- 2) Providing Services to Veterans Through the Public Workforce System: Descriptive Findings from WIA Gold Standard Evaluation: Volume I and Volume II ²

The first report discusses the challenges and issues when implementing a nationwide evaluation of an ongoing program and is primarily intended for policy makers and researchers contemplating a large-scale evaluation of this type. The second report discusses the results of the Veterans Supplemental Study (VSS), a component of the evaluation.

The VSS report describes the characteristics of veterans served by the public workforce system during the time the WGSE was in process as well as the services

¹ http://wdr.doleta.gov/research/keyword.cfm?fuseaction=dsp_resultDetails&pub_id=2572&mp=y.

² http://wdr.doleta.gov/research/keyword.cfm?fuseaction=dsp_resultDetails&pub_id=2569&mp=y.

provided and the outcomes experienced by participating veterans. Among other things the report reveals:

- Veterans were not always aware of the services to which they were entitled or their right to priority of services when they entered an American Job Center (AJC).
- AJC staff, including WIA staff and veterans' representatives funded by Jobs for Veterans State Grants (JVSG), reported that a key activity was translating veterans' military experience to civilian job opportunities.
- The report also includes an in-depth analysis of administrative data from two States which allowed the evaluation team to correlate service receipt with veterans' average post-program quarterly earnings.

The Department plans to release in Summer 2016 a report describing program operations at the 28 LWIAs participating in the study as well as a series of implementation briefs. In combination, the briefs and report will provide information about the general approach for offering services and training. Two impact reports are scheduled for release in 2017 and 2018; they will provide information about the effectiveness of workforce services at 15 months and 30 months, respectively, after participants were randomly assigned into the study. The final report also will provide the results of the cost-benefit analysis. While this evaluation is of WIA, there are significant parallels to the service-delivery structure under the Workforce Innovation and Opportunity Act, which superseded WIA, and will be relevant under WIOA.

Question. Are there useful insights coming out of it?

Answer. The qualitative data described in that report will provide insights about various practices or approaches that will help States and local areas improve service quality. The forthcoming implementation report will be available in early summer 2016 and will provide a snapshot of how the WIA Adult and Dislocated Worker programs were operating nationwide in the early 2010s. Early findings from the evaluation substantiate a number of the changes instituted under Workforce Innovation and Opportunity Act (WIOA) that provide more flexibility to local areas to better serve their clients based on their immediate needs, existing strengths and skills.

Question. It appears that much of the data upon which the study was based comes from the program before implementation of the new authorization act of 2014. Does that change the way the results should be received?

Answer. Although WIOA made some important changes to the public workforce system, it leaves intact important elements of the service-delivery structure of the adult and dislocated worker programs. For example, services will continue to be accessed at AJCs, a similar set of services will be offered, and customers will continue to choose the service mix they view as most appropriate, with some restrictions. Thus, the evaluation findings can guide workforce decision-makers and practitioners as they continue to improve workforce system operations and services under WIOA.

One example of this is the finding noted above that AJC staff, including Adult and Dislocated Worker program staff and veterans' representatives funded by JVSGs, reported that a key activity was translating veterans' military experience to civilian job opportunities. In the fiscal year 2016 appropriation the Department received \$7,500,000 for an Occupational Licensing Grant program that includes the opportunity for States to work on the translation of veterans' military experience to civilian occupations where licensure is required. The 2017 Budget requests \$10,000,000 for this work.

Question. Will the results come in time to help shape a more effective implementation of the new WIOA act to help fix deficiencies it may reveal?

Answer. While the impact results from the WGSE are scheduled for release in early 2017 and in 2018, the series of implementation study briefs and qualitative findings will help States and localities as they continue to implement WIOA. During the next several years, State and local officials and workforce development boards will have many opportunities to use the results from the WGSE to improve practices and the quality and types of services offered through AJCs.

UPDATED INTERPRETATION OF THE FAIR LABOR STANDARDS ACT

Question. On January 20th, the Wage and Hour Division Administrator issued an "Administrator's Interpretation" changing the interpretation of the Fair Labor Standards Act (FLSA) and its related regulations in place since the early 1960's with respect to joint employer relationships. The interpretation changes the agency's enforcement posture and seems to expand upon the NLRB's recent decision in *Browning Ferris* in August.

What is your view of the effect of the new interpretation statement?

Answer. The Wage and Hour Division (WHD) published Administrator's Interpretation (AI) No. 2016-1, Joint employment under the Fair Labor Standards Act and Migrant and Seasonal Agricultural Worker Protection Act to provide additional, detailed guidance concerning joint employment in order to assist the regulated community.

This AI reflects existing WHD policy. From their enactment, the FLSA and MSPA allowed for the possibility that a worker may have multiple employers, and the statutes' joint employment regulations were promulgated decades ago. The guidance provided in this AI is consistent with those regulations, WHD's investigative and enforcement efforts, and its previous guidance, including fact sheets, Opinion Letters, and AI 2014-2 on joint employment of home care workers in consumer-directed, Medicaid-funded programs by public entities under the FLSA.

The joint employment analysis applicable in FLSA and MSPA cases is not the same as the analysis applied by the NLRB. The NLRB is an independent agency and its decisions are based on a different statute (the National Labor Relations Act) with a different standard for determining joint employment.

Question. Since it cannot be construed to carry the weight of law or regulation, is it simply intended as helpful guidance or compliance assistance to stakeholders? Or do view it as more than that?

Answer. WHD constantly seeks opportunities to provide helpful guidance and compliance assistance, such as AIs, to the regulated community.

The Administrator published this AI to provide additional, detailed guidance concerning joint employment under the FLSA and MSPA in order to assist the regulated community.

The AI identifies common scenarios in which two or more employers jointly employ an employee and are thus jointly liable for compliance, and common scenarios in which no joint employment relationship exists. It pulls together all the relevant authorities: statutory provisions, regulations, and case law to provide comprehensive guidance on joint employment under FLSA and MSPA so that potential joint employment scenarios can be properly analyzed.

Question. Is the interpretation intended to fundamentally change the scope of the Fair Labor Standards Act and its existing regulations and expand the liabilities and compliance costs placed upon the stakeholders, including employers that have no direct or exercised control over employment matters in the given situation?

Answer. No, the AI does not change the scope of the FLSA or MSPA. It reflects the FLSA and MSPA as written, as well as existing WHD policy. The AI does not impose any new obligations on employers or represent a change in the Department's statutory interpretation or policy.

Question. The Administrative Interpretation seems to have the expressed purpose of changing the scope and long-standing interpretation of law and regulation. In fact, the statement says explicitly that the Wage and Hour Division may "consider joint employment to 'achieve' statutory coverage." This seems to be a direct acknowledgement that the interpretation seeks to extend the scope of the law beyond what it was written to do. Why would the agency not use a full Administrative Procedures Act process (including steps like public notice and comment, cost-benefit analysis, and small business impact evaluations) to formally change the regulations or interpretations—especially given how controversial and impactful this matter is?

Answer. As discussed in response to the question above, the AI does not change the scope of the FLSA or MSPA. It reflects the FLSA and MSPA as written, as well as existing WHD policy. The AI does not impose any new obligations on employers or represent a change in the Department's statutory interpretation or policy. Therefore, the content of this AI does not require notice and comment rulemaking.

Question. Why is the Department circumventing those processes for such major changes?

Answer. The content of this AI does not require notice and comment rulemaking. WHD issues AIs when it determines that further clarity would be helpful on the proper application of existing law to particular situations or categories of workers. The AI provides additional detail and analysis of WHD's position concerning the identification of joint employment, and does not impose any new obligations on employers or represent a change in the Department's statutory interpretation or policy.

ADDRESSING GAO CRITICISMS OF VETS' PERFORMANCE GOALS

Question. In the past several years, the unemployment rate for veterans has been significantly higher than the national average. It is critical that veterans transition effectively out of military service into civilian life. The Government Accountability Office (GAO) has issued several reports on how to better target and coordinate employment and training programs focused on our Nation's veterans. One of the criti-

cisms that GAO cites is the lack of transparency with regard to the extent to which veterans' employment training services are meeting performance goals. In particular, questions were raised regarding whether outcomes are attributable to program participation and challenges with coordinating veterans' employment programs within the Department and across other Federal agencies.

Mr. Secretary, can you discuss what the Department has done and is doing to address these concerns?

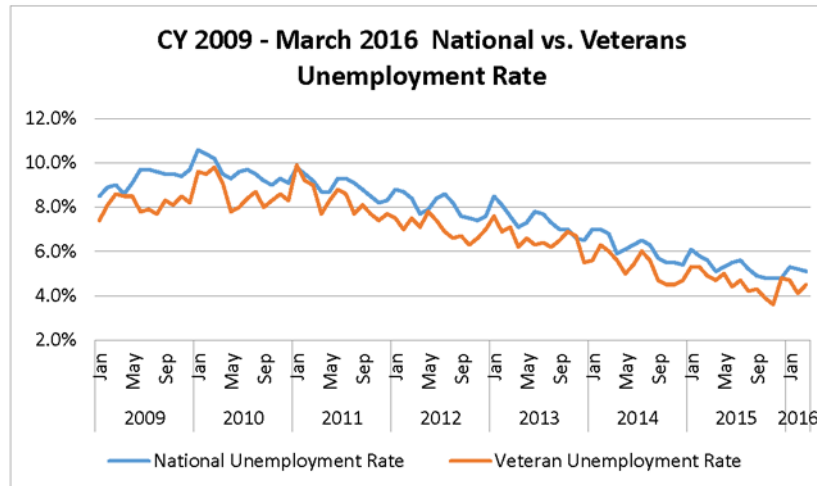
Answer. This Administration has made significant progress in improving employment outcomes for veterans, undertaking efforts to conduct formal evaluations of our programs that link program participation to long term outcomes, and addressing GAO's concern regarding increased transparency in program performance information.

The Administration's efforts to address unemployment for all American workers, and its specific programs targeted at veterans, have contributed to a significant decrease in the unemployment rate at a time of economic recovery. These include strategies to work with private sector employers and to build partnerships among Federal agencies that have a stake in veteran employment.

Perhaps the most prominent effort with respect to veterans in particular is the White House's Joining Forces initiative. Currently in its fifth year, this initiative mobilizes private sector employers to hire an increased number of veterans and transitioning servicemembers. Building on this model, the Department of Labor's Veterans' Employment and Training Service (VETS) has established the Office of Strategic Outreach, with Regional Veteran Employment Coordinators (RVECs) stationed throughout the country linking private employers to job-ready veterans. Additionally, within government, there has been an incredible interagency effort (with partners from DOL, Veterans Affairs, the Department of Defense, the Department of Education, and the Small Business Administration), prompted by the VOW Act, to modernize support to servicemembers as they transition to civilian life.

In part, as a result of these and similar efforts, the veteran unemployment rate has consistently been lower than the national average. In fact, in the 87 months since January 2009, the veteran unemployment rate has been lower than or equal to the national average in all but 2 months, January 2011 and November 2013. Included below is a line graph displaying the Bureau of Labor Statistics' national unemployment rates (Table 1) for these months, and the veteran unemployment rate (Table 2). Note: The national unemployment rate is for all persons 16 years and over while the veteran unemployment rate is for veterans ages 18 and over.

[The graph follows:]



[The tables follow:]

Table 1. National Unemployment Rate												
Labor Force Statistics from the Current Population Survey												
Original Data Value												
Series Id:	LNU040											
Not Seasonally												
Series title:	(Unadj)											
Labor force status:	Unemployment											
Type of data:	Percent or rate											
Age:	16 years and over											
Years:	2009 to 2016											
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2009	8.5	8.9	9.0	8.6	9.1	9.7	9.7	9.6	9.5	9.5	9.4	9.7
2010	10.6	10.4	10.2	9.5	9.3	9.6	9.7	9.5	9.2	9.0	9.3	9.1
2011	9.8	9.5	9.2	8.7	8.7	9.3	9.3	9.1	8.8	8.5	8.2	8.3
2012	8.8	8.7	8.4	7.7	7.9	8.4	8.6	8.2	7.6	7.5	7.4	7.6
2013	8.5	8.1	7.6	7.1	7.3	7.8	7.7	7.3	7.0	7.0	6.6	6.5
2014	7.0	7.0	6.8	5.9	6.1	6.3	6.5	6.3	5.7	5.5	5.5	5.4
2015	6.1	5.8	5.6	5.1	5.3	5.5	5.6	5.2	4.9	4.8	4.8	4.8
2016	5.3	5.2	5.1									

Table 2. Veteran Unemployment Rate												
Labor Force Statistics from the Current Population Survey												
Original Data Value												
Series Id:	LNU040											
Not Seasonally												
Series title:	(Unadj)											
Labor force status:	Unemployment											
Type of data:	Percent or rate											
Age:	18 years and over											
Veterans status:	Veteran											
Years:	2009 to 2016											
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2009	7.4	8.1	8.6	8.5	8.5	7.8	7.9	7.7	8.3	8.1	8.5	8.2
2010	9.6	9.5	9.8	9.1	7.8	8.0	8.4	8.7	8.0	8.3	8.6	8.3
2011	9.9	9.2	9.0	7.7	8.3	8.8	8.6	7.7	8.1	7.7	7.4	7.7
2012	7.5	7.0	7.5	7.1	7.8	7.4	6.9	6.6	6.7	6.3	6.6	7.0
2013	7.6	6.9	7.1	6.2	6.6	6.3	6.4	6.2	6.5	6.9	6.7	5.5
2014	5.6	6.3	6.0	5.6	5.0	5.4	6.0	5.6	4.7	4.5	4.5	4.7
2015	5.3	5.3	4.9	4.7	5.0	4.4	4.7	4.2	4.3	3.9	3.6	4.8
2016	4.7	4.1	4.5									

It is correct that in some demographic cohorts, such as veterans ages 18–24, veteran unemployment had been consistently higher than nonveterans of the same age. In response, the Administration has pursued policies to address this disparity, significantly decreasing the gap between these cohorts' unemployment rates. The unemployment rate for veterans aged 18–24 has dipped below their nonveteran peers in several months over the last year.^{3,4}

The Department attributes this improvement in part to targeted efforts to reach this population and provide them with the employment supports necessary to facilitate their transition into the civilian workforce. Some examples of these efforts include:

- Classifying veterans, ages 18–24, as a special population eligible to receive intensive services from a Disabled Veterans' Outreach Program (DVOP) specialist in American Job Centers (AJCs);
- Reengineering the Transition Assistance Program's Department of Labor Employment Workshop (TAP DOLEW) to better meet the needs of transitioning service members, especially those with the most barriers to employment, such

³National Unemployment Rates: DOL, BLS, Labor Force Statistics from the Current Population Survey (CPS), Table A-1 Employment status of the civilian population by sex and age, seasonally adjusted, found at: <http://www.bls.gov/webapps/legacy/cpsatab1.htm>.

⁴Veterans Unemployment Rates: DOL, BLS, Labor Force Statistics from the CPS, Employment status of persons 18 years and over by veteran status, age, and sex, not seasonally adjusted, found at: http://www.bls.gov/webapps/legacy/veterans_by_age_and_sex.htm.

- as 18–24 year olds (the largest demographic participating in TAP) who lack labor force attachment, education, and/or career credentials; and
- Establishing a program to provide in-person reemployment services to recently-separated servicemembers drawing Unemployment Compensation for Ex-Servicemembers (UCX), including veterans ages 18–24 that have significant barriers to employment for reasons stated above.

The Department has taken additional steps to serve veterans that are in most need of employment services through policy changes. Perhaps the most significant policy change occurred in April 2014, when VETS and ETA released joint guidance providing that only veterans with significant barriers to employment or other select populations were referred to the Jobs for Veterans State Grants (JVSG) program. Prior to this change, many States were referring all veterans in AJCs to the JVSG program.

This policy was designed to target veterans with significant barriers to receive increasing levels of intensive services, and it has largely succeeded. These intensive services include formal skills assessment, the development of an individual employment plan, group and career counseling, interview skills, etc. VETS has worked collaboratively with States to provide technical assistance in implementing this policy, and it has resulted in significant changes to the services provided to participants and their eventual employment outcomes.

The percent of JVSG participants receiving intensive services has increased from 22 percent in PY 2009 to 81 percent in PY 2015 as of December 31, 2015 half-way through the program year. During that same time period, the entered employment rate for JVSG participants increased from 48 percent to 59 percent. Further, the employment retention rate of JVSG participants, or those who retained employment 6 months after program exit, has increased from 74 percent in PY 2009 to 83 percent today, and the average six-month earnings of these participants rose from \$14,751 to \$16,903.

Another key Departmental objective in improving veteran employment outcomes is eliminating veteran homelessness. Over the last year, I have been honored to have served as the Chairperson of the United States Interagency Council on Homelessness (USICH), a collaborative effort among Federal agencies to end homelessness once and for all. VETS' Homeless Veterans' Reintegration Program (HVRP), a vital component of this endeavor, is singularly focused on attaching homeless veterans to the labor force.

Similarly to the JVSG program, HVRP participant outcomes have improved over the course of this Administration. The placement rate of HVRP participants was 59 percent in PY 2009 compared to 69 percent at the end of PY 2014 (the most recently completed program year). This was the highest placement rate since the program began. During that same time period, average hourly wage of placed participants rose from \$10.16 to \$11.84. The 2017 Budget seeks an increase of nearly \$12 million to bring HVRP to its authorized level of \$50 million.

I would like to point out some of the important evaluation efforts related to veteran employment outcomes conducted by the Department's Chief Evaluation Office. The first is an exploratory analysis of participant services and employment outcomes of participants in the AJC system, which demonstrated the following positive outcomes for JVSG participants compared to participants of other programs:

- On average, JVSG veterans receive their first staff-assisted services more quickly (8 days) than non-JVSG veterans (10 days) and non-veterans (10 days).
- JVSG veterans have smaller gender earnings gaps and smaller military-separation-time earnings gaps.
- In the first 9 months after exit, male-female gender earnings gaps for JVSG veterans (\$2,386) are 19 percent smaller than gender earnings gaps for non-JVSG veterans (\$2,942) and 34 percent smaller than gender earnings gaps for non-veterans (\$3,638).
- In the first 9 months after exit, the earnings gap between Pre-9/11 and Recently Separated JVSG veterans is roughly \$825; this earnings gap is \$2,711 for Pre-9/11 and Recently Separated non-JVSG veterans.

More information on this study can be found here: <http://www.dol.gov/asp/evaluation/completed-studies/VeteranNon-VeteranJobSeekers.pdf>.

With respect to GAO's suggestion regarding "transparency with regard to the extent to which veterans' employment training services are meeting performance goals." The Department initially raised a concern about statements in the GAO draft report that incorrectly asserted VETS does not report on the number of veterans receiving intensive services. As we stated in our original response to GAO, this measure is one of three Agency Priority Goals, each of which are reported quarterly on the Administration's performance.gov website. For your reference, I have included the link here: <https://www.performance.gov/node/37072?view=public#apg>.

Further, to address a concern related to the transparency of performance information, 2 years ago, VETS began publishing the following annual performance targets and outcomes on the Agency's website:

—JVSG state-by-state negotiated targets and outcomes for: Entered Employment Rate (EER), Employment Retention Rate (ERR), and six-month Average Earnings (AE), which can be found here: <http://www.dol.gov/vets/vetoutcomes/index.htm>; and

—HVRP national targets and outcomes for: All HVRP Participant Placement Rate, Homeless Female Veteran Placement Rate, and Cost per Participant, which can be found here: <http://www.dol.gov/vets/programs/hvrp/main2013.htm>.

On the next page, for your reference, is a copy of our written comments to the GAO report, which were reproduced in the letter to Mr. Mihm from Mr. Kerr, dated August 26, 2015.

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



AUG 26 2015

Mr. J. Christopher Mihm
Managing Director, Strategic Issues
Government Accountability Office
441 G St, NW
Washington, DC 20548

Dear Mr. Mihm:

I appreciate the opportunity to comment on your draft report, *Managing for Results: Greater Transparency Needed in Public Reporting on the Quality of Performance Information for Selected Agencies' Priority Goals* (GAO-15-788), which included recommendations for the Department of Labor (DOL).

We are continuously working to improve the quality of our publically-reported performance information. To that end, we created a data quality assessment tool that will be piloted in FY 2016 and includes agencies with measures that support our Agency Priority Goals (APGs) for FY 2016-17. The tool is tentatively scheduled for Department-wide implementation in FY 2017. We will include a description of the process and summary findings in our FY 2016 Annual Performance Report and annually thereafter. We will also work with the Office of Management and Budget to make APG data quality information available on Performance.gov.

DOL has concerns about the statements on page 21 of the draft report regarding information on several of our programs that serve veterans. The report incorrectly asserts that DOL does not report on the number of veterans receiving intensive services relative to performance goals. Rather, DOL has used the Veterans' Employment and Training Services (VETS) measure for the percent of veterans being served by the Disabled Veterans' Outreach Program as an APG for four years and has included how results relate to performance goals. Additionally, outcomes for the Veterans Workforce Investment Program have been included in the annual report to Congress in FY 2013 and FY 2014.

If you have any questions you can contact Holly Donnelly, Deputy Performance Improvement Officer at Donnelly.holly.a@dol.gov.

Sincerely,


T. Michael Kerr
Performance Improvement Officer

NEW JOB TRAINING INITIATIVES IN ETA

Question. The President's request includes \$12.5 billion of new job training initiatives using mandatory rather than discretionary funds. Most of these initiatives are duplicative of existing programs, but represent a massive increase in spending not subject to the caps. One component of this initiative, the American Talent Compact,

provides for \$3 billion for training “featuring strong industry partnerships and focus on in-demand sectors.”

Why do you propose creating a separate mandatory program focused on achieving this specific goal?

Answer. The President’s 2017 Budget provides discretionary funding coupled with complementary mandatory investments to ensure that American workers have the knowledge and skills to succeed in middle-class jobs, and that employers have the skilled workforce they need to compete.

While the Bipartisan Budget Act of 2015 (BBA) provided a critical increase in discretionary funding for 2016 and 2017, not fully replacing sequestration in 2017 limits our ability to make needed investments. For that reason, the Budget includes a series of investments using mandatory funding, including investments in job training.

The Administration’s proposed Job Driven Training investments will advance State capacity to expand proven training pathways to the middle class; improve the effectiveness of workforce programs through enhanced and expanded access to data; set 1 million young Americans on a pathway to successful careers; and support targeted economic growth and job creation in regions across the country.

One of the main assets a business considers when deciding where to locate and grow is the availability of talent. Specifically, the American Talent Compact would fund 50–60 regions (“Talent Hotspots”) a year, to train and employ 500,000 people. The Talent Compact would create regional partnerships of employers, educators, training providers, and workforce and economic development leaders that prioritize a high-growth sector and make a commitment to recruit and train the workforce to help local businesses grow and thrive, attract more jobs from overseas, and fuel the talent needs of entrepreneurs.

The 21st century American worker faces an increasingly complex and dynamic job market. Globalization, automation, and technological innovation are driving rapid changes in available jobs and demanded skills. The President is proposing a plan to ensure that our education and training systems do more to help workers succeed as the labor market evolves.

All of these plans hold the promise of economic growth and job creation. Growing evidence shows that firms engaged in regional clusters supported by institutions providing education, training, finance, and marketing services experience higher rates of job and wage growth than comparable firms not engaged in these regional partnerships.⁵

Question. Why not maintain the focused effort through the existing primary programs, which are already funded at the highest levels in the last several years amid slowing demand and participation?

Answer. Although overall participation in workforce programs has declined since the peak of the recession, overall demand for services remains high. In PY 2014 (7/1/2014–6/30/2015), Workforce Investment Act and Wagner-Peyser programs provided services to over 15 million individuals.

Formula funding under the Workforce Investment Act and the successor Workforce Innovation and Opportunity Act has not kept up with inflation. The 2017 Budget funds the core DOL WIOA formula grants—Adult, Youth and Dislocated Workers—at their full authorized level—an \$138 million increase over fiscal year 2016, for a total of \$2.8 billion. Put in historical context, this is a modest investment—even with this increase, funding for these programs would still be 25 percent below where it was 10 years ago.

The \$3 billion funding request for the American Talent Compact builds on these investments in the base WIOA programs, targeting regional partnerships to train workers to meet local employers’ demand while also fostering economic growth.

Funds will be provided on a competitive (versus formula) basis, which will allow funding to be targeted on particular economic regions to catalyze and accelerate job growth and advancement opportunities. Competitive funding opportunities, such as the American Talent Compact, ensure scarce Federal resources are directed to the highest quality applicants.

MINE SAFETY AND HEALTH ADMINISTRATION EQUIPMENT APPROVAL PROCESS

Question. On many occasions we have heard that MSHA (Mine Safety and Health Administration) has difficulty with the process to analyze and approve mine equipment. Approval is required before the equipment is permitted to be used in certain mines. One particular such concern is that MSHA does not recognize equipment ap-

⁵ <https://hbr.org/2012/03/a-jobs-compact-for-americas-future>.

provals issued by internationally-recognized standard setting and approval authorities.

Has MSHA evaluated the cost and time burdens that U.S. equipment manufacturers face related to the approval process for equipment that has already received international approval?

Answer. MSHA's primary goal is protecting the safety and health of miners. To this end, MSHA approves and certifies new mining equipment and technology to ensure it does not introduce an explosion or fire hazard in an underground mine. MSHA has not evaluated the cost that equipment manufacturers incur from securing MSHA approval of equipment that has already received international approval.

MSHA will accept tests and evaluations performed by any laboratory, provided that MSHA product approval requirements are followed. This third-party testing provides equipment manufacturers with an alternative to MSHA testing, which may reduce waiting times. Under 30 CFR Part 7, MSHA will accept tests and evaluations performed by an independent laboratory, provided that MSHA product approval requirements are followed. This third-party testing provides equipment manufacturers with an alternative to MSHA testing, which reduces waiting times. MSHA will also accept product approvals based on international standards under 30 CFR Part 6 (effective in 2003), if MSHA has determined the international standards are equivalent to MSHA standards. MSHA has evaluated one product (explosion-proof enclosure) based on international standards after determining that the international standards were equivalent to MSHA's. MSHA will continue to apply international standards to future approvals, as appropriate.

Question. Are there appropriate means to alleviate unnecessary or redundant procedural burdens?

Answer. For products that are tested using non-MSHA standards, MSHA has a process that allows the Agency to approve these products so long as the testing provides for the necessary margin of safety. This allows MSHA to approve products without additional testing, thereby eliminating redundancies. Recently, MSHA has asked NIOSH (National Institute for Occupational Safety and Health) to assess the overall safety of the MSHA requirements as compared to an international standard for intrinsically safe portable battery operated equipment. This approach would permit MSHA to accept the international standard as equivalent to the MSHA requirements without any modification, and would alleviate the burden of modifying existing products to obtain MSHA approval. We expect a final report to be issued to allow acceptance of the standard in 2017.

PROPOSED RULE FOR PROXIMITY DETECTION SYSTEMS

Question. Last year MSHA published a proposed rule for proximity detection systems for mobile machines in underground mines. The comment period has closed and presumably the agency is working to complete the final rule before the end of the year. At the same time NIOSH, the government's preeminent mine safety research agency, has an aggressive and vigorous research program underway to make sure the technology that is ultimately required is functional and will protect miners as intended.

Will the Department allow NIOSH to complete its research before MSHA finalizes the rule?

Answer. MSHA published a Notice of Proposed Rulemaking (NPRM) on Proximity Detection Systems for Mobile Machines in Underground Mines on September 2, 2015. After holding a series of public hearings, MSHA received a request to extend the comment period. In response to this request, the end of the comment period for the NPRM was extended from December 1, 2015 to December 15, 2015. MSHA received considerable comments on the proposal for the development of a final rule, and is currently analyzing these comments. MSHA will continue to work closely with NIOSH in the development of design parameters and performance guidelines for proximity detection systems in underground mines. MSHA will also apply lessons learned from the performance of these systems on continuous mining machines in underground coal mines as we develop the final rule for mobile machines.

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

ADDRESSING VISA APPLICATION BACKLOG

Question. I have heard from constituents that the Department is experiencing significant delays in processing visa applications for agricultural and non-agricultural workers.

What steps has your Department taken to address the backlog of applications to ensure an on time start date for workers?

Answer. The Office of Foreign Labor Certification (OFLC) is experiencing significant H-2B program delays as a result of an unprecedented combination of external and internal challenges that impacted processing of prevailing wage requests and certification requests from mid-December 2015 until early February 2016. The Office, as of May 12, completed its recovery from these challenges, which are briefly described below.

The Consolidated Appropriations Act, fiscal year 2016 (Omnibus) was enacted on December 18, 2015, and contains provisions significantly affecting the H-2B program requirements that were established in the 2015 H-2B Interim Final Rule and Final Wage Rule that were implemented at the end of April 2015. Among other things, the Omnibus H-2B provisions broaden the use of employer-provided surveys to set the prevailing wage; prohibit the Department from enforcing its regulations requiring employers to offer minimum hours of work for three-fourths of the work contract period and requiring that similarly employed U.S. workers receive at least the same wages and benefits as H-2B workers; and prohibit the Department from using funds to conduct audit examinations and supervised recruitment to ensure program compliance.

The Omnibus requirements took effect immediately, without any transition period. In order to implement changes to program requirements, OFLC had to pause its processing to ensure that the new requirements were fully implemented. OFLC requested and received Office of Management and Budget authorization for emergency processing of changes to application forms so that they complied with the new program requirements, and the agency issued emergency guidance to the stakeholder community so program users were aware of the changes. OFLC immediately resumed processing on January 5, 2016, and continues to implement all new program requirements contained in the Omnibus.

Coinciding with the processing pause to implement new program requirements contained in the Omnibus, OFLC experienced more than a two-fold increase in new H-2B application filings during a three-week period from December 26, 2016 to January 15, 2016, as compared to the same period last year.

In January 2016, OFLC also experienced intermittent technical problems with the iCERT electronic filing system, resulting from the implementation of required IT security specifications. These technical problems impacted the timely processing of pending H-2A and H-2B applications for several weeks. DOL has taken steps to address this backlog in the H-2B program. We increased staff resources prior to our typical seasonal filing increase, but the unexpected and unprecedented high volume of new H-2B applications in late December to mid-January far exceeded processing capacity. Therefore, we again reallocated staff and increased staff overtime hours, while attempting to maintain program integrity and minimize delays in processing labor certification applications in other visa programs administered by the Department.

In addition, on February 19, 2016, we implemented an emergency procedures processing plan. Employers experiencing significant delays could request emergency processing via email through April 30th. Employers that are granted emergency processing may conduct recruitment of U.S. workers on an expedited basis without filing a new application, which will save eight to 10 days of processing time. Because OFLC has now recovered from these challenges, it has not extended these emergency procedures.

Finally, we have implemented changes in work processes to increase efficiencies after recruitment has taken place. A dedicated team of employees has been established to conduct final reviews of employer recruitment reports once they are submitted to the Department. A prompt review of the employer's recruitment report is a critically important step before issuing a final determination. This new business process has reduced processing times from approximately two weeks to within three business days of receiving the report.

The Department is also reviewing the H-2B program and determining what, if any, additional steps it can take to improve efficiency in the program. Because the H-2A filing season overlaps with the H-2B filing season, the resources available for processing both H-2B and H-2A applications were insufficient to meet the demand. Therefore, we also have been experiencing longer processing times for some H-2A applications. OFLC has also taken prompt action to try to restore normal processing times and reduce the number of pending H-2A cases as quickly as possible. We are reallocating resources to hire seasonal contract staff and increased staff overtime hours, while attempting to maintain program integrity and minimize delays in processing. We have already reduced the number of pending H-2A applications by almost 57 percent between February 6 and April 30 (from 1,594 pending to 683 pend-

ing). Additionally, although the percentage of complete H-2A applications processed on time (i.e., no later than 30 days before the start date of need) dropped to 85 percent for the month of February 2016, we recovered quickly to 99.1 percent on time for the second week of May 2016.

Question. What changes is your Department making to ensure that the visa backlog does not become an annual problem?

Answer. The Department is monitoring processing times to ensure all requests and cases are processed as expeditiously as possible, and will reallocate resources by reassigning staff and increasing available work hours as necessary. We continue to assess our processes and procedures and conduct extensive stakeholder outreach and provide employer assistance in order to ensure that the programs are effective for employers with a legitimate need for temporary foreign workers. However, the continuing substantial increase in the volume of applications could contribute to longer processing times and potential backlogs in the future absent additional resources. Annual OFLC application volumes have risen by 84 percent when compared to fiscal year 2010, while the appropriations used to process these applications decreased by 9 percent. Even before the H-2B challenges that arose earlier this year, overall H-2B application volumes had grown by 59.6 percent, while H-2A volumes had increased by 38.5 percent from fiscal year 2012 to fiscal year 2015. The President's 2017 Budget seeks authorization for the Department to expand the current H-1B fee-based funding authority to foreign labor certification applications filed under the Permanent and H-2B programs, including possible expedited processing fees. The Department also seeks authority to adjust the amount and retain the fees currently deposited in the U.S. Treasury for applications filed under the H-2A temporary labor certification program. This market-based legislation will help ensure that the Department has sufficient resources to efficiently process applications and effectively respond to employer demand by aligning the program's resources with the level of demand for its services.

Question. What can our Committee can do to help address this issue?

Answer. We expect the demand for temporary worker programs to continue to increase, particularly in light of Congressional enactment of the returning worker exemption to the statutory cap on H-2B visas. Annual OFLC application volumes have risen by 84 percent when compared to fiscal year 2010, while the appropriations used to process these applications decreased by 9 percent. While we continue to implement efficiencies, we believe this situation will worsen without a more comprehensive solution. Therefore, we urge you and your colleagues to support the President's fiscal year 2017 Budget Request for a fee-based funding structure similar to that used by the DHS for foreign labor certification programs. This market-based approach would provide the necessary resources to ensure the program can provide timely case-processing services and respond effectively to employer demand by aligning the program's resources with the level of demand for its services. If enacted, the proposal would reduce processing times and provide better customer service to employer applicants. We have heard particularly from users of the permanent certification program that employers are willing to pay program fees in order to receive certifications more quickly. The fee proposal would offset Federal costs for the OFLC program and, once implemented, could eliminate the need for appropriations. We will continue to work with the Committee to address this question through the appropriations process.

DISABILITY EMPLOYMENT INITIATIVE

Question. The Disability Employment Initiative (DEI) grant program is intended to assist disability providers and State governments to implement services that benefit individuals with disabilities in gaining employment opportunities.

In awarding DEI grants, does the Department give consideration to States that have not won in recent years?

Answer. In the 2015 Funding Opportunity Announcement for DEI grants, only States that had not won in the previous DEI round were eligible for funding. DOL is considering whether to include a similar provision in the upcoming Funding Opportunity Announcement for 2016, which is due to be published in late spring.

Question. What is the Department doing to ensure this program reaches rural communities and addresses the unique challenges facing individuals with disabilities living in rural communities?

Answer. The Department has taken steps to ensure the DEI grants strengthen the capacity of American Job Centers (AJCs) to serve underserved populations in rural communities. Specifically, in making DEI awards, the Department's Grant Officer may take into consideration factors such as geographic distribution of funds and other relevant factors. Currently, the entire States of Alaska and South Dakota are

pilots in DEI. In addition, for other States where there are pockets of rural representation receiving DEI funds, we have identified the following communities benefiting from DEI grants:

- Illinois—Peoria area;
- Kansas—Southeast local workforce investment area (LWIA);
- New Jersey—Cumberland/Salem areas;
- New York—Several rural areas such as Chenango-Delaware-Otsego Counties and Broome-Tioga Counties;
- California—Golden Sierra area, Madera County and Merced County;
- Tennessee—LWIA 1 and 8; and
- Wisconsin—West Central and Southwest are all rural communities.

INCLUDING THE RETAIL EXEMPTION IN THE PROCESS SAFETY MANAGEMENT STANDARDS UPDATE

Question. Last year, Congress included language in the joint explanatory statement accompanying the fiscal year 2016 Omnibus appropriations bill that prohibited the Occupational Safety and Health Administration (OSHA) from using funds to enforce a July 22, 2015 “retail exemption” memo regarding anhydrous ammonia chemicals. The report language specifically stated OSHA should go through the formal rulemaking process to change the retail exemption. However shortly thereafter, OSHA issued a memo delaying enforcement until the beginning of fiscal year 2017. It is my understanding that OSHA is already in the early stages of rulemaking to update Process Safety Management (PSM) regulations.

Why did OSHA not include “retail exemption” in the list of issues to be covered in the updated PSM regulations?

Answer. OSHA’s announcement that it will not enforce the July 22, 2015, “retail exemption” memo through September 30, 2016, is consistent with the language of the report accompanying the fiscal year 2016 appropriations bill, which specifically prohibits enforcement of the retail exemption during fiscal year 2016 absent formal rulemaking and other steps. In addition, OSHA recently began the process for potential rulemaking. OSHA included a definition of “retail” in its Background Document to the Small Business Regulatory Enforcement Fairness Act (SBREFA) panel being convened to consider the impact on small businesses of possible amendments to the PSM standard. This is the first step in a process that could potentially result in the inclusion of definition of “retail” in an NPRM.

Question. Is OSHA aware of any accidental releases of anhydrous ammonia chemicals by an agricultural retailer in compliance with current regulations?

Answer. Data released to OSHA by the EPA shows that between 2004 and 2013, farm supply merchant wholesalers, some of whom were formerly exempted from the PSM standard as “retail,” experienced 128 reportable anhydrous ammonia releases. These incidents injured 84 workers, 9 emergency responders, and 66 members of the public. However, the data is not sufficiently detailed to enable OSHA to determine which of the facilities experiencing releases qualified for the retail exemption under the prior interpretation or the compliance status of those facilities.

On April 5, 2016, an agricultural distribution facility in Stewardson, Illinois, experienced a release of nearly 20 tons of anhydrous ammonia causing evacuation of 200 residents and hospitalization of 20. No employees were involved or injured. OSHA is gathering information on the incident and at this time the agency is uncertain whether the facility is in compliance with current standards.

Question. If so, why is OSHA not updating those current standards as opposed to adding retail facilities to current PSM standards?

Answer. No current standards, other than PSM, directly address the hazards associated with the handling and use of large quantities of anhydrous ammonia in processes. Changing the interpretation of “retail” to ensure that farm supply merchant wholesalers who handle large quantities of anhydrous ammonia are not exempted from coverage under the PSM standard will help protect against catastrophic releases of this highly hazardous chemical.

Question. If not, then why are agricultural retailers being added to the PSM standards when compliance efforts should be focused on manufacturing facilities?

Answer. While most of OSHA’s PSM compliance efforts are directed toward chemical manufacturers, which are covered under the North American Industrial Classification System 325, processes involving bulk use of highly hazardous chemicals also occur in a variety of other industry sectors. Farm supply merchant wholesalers, that may store and handle tens or hundreds of thousands of pounds of anhydrous ammonia, have an increased risk of catastrophic release because of the large quantities of this highly hazardous chemical they handle.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

PROPOSED OVERTIME RULE'S IMPACT ON TUITION COSTS

Question. At the hearing I asked about the impact of the overtime proposed rule on independent, non-profit colleges and universities—specifically regarding how the rule may lead to increased tuition for students. When I asked if you thought the schools were wrong when they said the rule could increase tuition by \$1,000 per student, you stated, “I don’t know if they’re right or wrong.”

Without discussing the coal dust rule, or any rule other than the overtime rule, please explain why you would impose on independent colleges and universities a rule that they say could raise tuition by \$1,000 per student?

Answer. In 2014, President Obama directed the Department of Labor to update and modernize the regulations governing the exemption of executive, administrative, and professional employees from the minimum wage and overtime pay protections of the Fair Labor Standards Act (FLSA). The Department last updated these regulations in 2004. On May 18, 2016, the Department announced the publication of the final rule, which was published in the Federal Register on May 23. The rule updates the salary level required for exemption to ensure that the FLSA’s intended overtime protections are fully implemented, and to simplify the identification of overtime-protected employees, thus making the exemption easier for employers and workers to understand and apply.

Consistent with the statute and current regulations, neither the proposed rule nor the final rule included a general exemption for higher education institutions. Employees at these institutions are generally covered by the FLSA’s minimum wage and overtime provisions. However, there are several provisions of existing law that would limit the impact of the rule on higher education. First, the rule does not alter an existing exemption for all employees whose “primary duty” is “teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment,” regardless of salary level. 29 CFR 541.303(a). In addition to professors, a coach, for example, may qualify as an exempt teacher if teaching is his or her primary duty. In addition, the rule does not alter an existing rule that exempts academic administrative personnel whose “primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or a department or subdivision thereof,” even if paid on a salary basis less than the standard salary level if the employee is paid “on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed.” 29 CFR 541.204 (a) and (b). Finally, the Department generally views graduate and undergraduate students engaged in research under a faculty member’s supervision, in the course of obtaining a degree as being in an educational relationship with the school. As such, the Department would not assert an employment relationship with the school and will not assert that such workers are entitled to overtime. Nothing in the rule alters this view of student research assistants.

The letter from the Tennessee Independent Colleges and Universities Association (TICUA) to Senator Alexander does not provide sufficient information for the Department to assess the accuracy of the estimate provided by one university that the proposed increase to the standard salary level would result in a tuition increase of \$1,000 per student. Moreover, employers have a variety of options for responding to the revised regulations. The Department does not dictate what options employers should use to comply. Employers may increase employees’ salaries to the proposed salary level to maintain their exemption from overtime, pay overtime for extra hours to salaried employees (newly non-exempt employees do not have to be converted from salaried to hourly), evaluate and realign employee workload to minimize overtime hours without changing workers’ pay, and/or they could hire additional employees to cover the workload previously handled by one employee to eliminate the need for overtime pay. Public universities, if they are a public agency under the Fair Labor Standards Act, may even be able to provide comp time rather than overtime payments in certain circumstances. There is more detailed information on all of these and other options available in our comprehensive guidance for higher education employers.⁶

Question. If you disagree with the colleges’ and universities’ assessment, please explain why you believe their comments and calculations are incorrect?

Answer. The letter from TICUA states that one unnamed university estimated that it would raise tuition \$1,000 per student if the Department adopted the salary level as proposed in the NPRM of \$970 per week (or \$50,440 for a full-year worker).

⁶ <https://www.dol.gov/whd/overtime/final2016/highered-guidance.pdf>.

No methodology is provided for this estimate or any other estimate of costs in the TICUA letter, and so I am not able to specifically respond to those estimates. As noted in response to the previous question, the rule maintains existing provisions for teachers and for certain academic administrative personnel, and allows for employers to determine the compliance option that works best for them and their workforce. It is also important to note that the final rule also sets the salary level at the 40th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region (currently the South) or \$913 per week (or \$47,476 for a full-year worker). This was partially in response to some commenters' concerns that setting the salary level based on national data, as in the proposed rule, would unduly impact certain regions of the country.

Many of the cost estimates we have seen from some higher education institutions may be based on unrealistic assumptions about the number of people who will be affected and how the institution must respond. We do not believe that higher education institutions should have to increase tuition in order to cover the costs of the rule. The rule's economic analysis shows that the total costs and transfers to the "Education and health services" sector are estimated to be just .03 percent of payroll and .01 percent of revenue. (See Table 30 in the rule, page 32498.)

NEW ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT RULES

Question. I've heard from almost 1,500 constituents regarding their concerns with the changes the Department proposed in November 2015 regarding the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). My constituents are concerned that the changes may adversely impact claims adjudication, prevent them from seeing the doctor of their choice, and result in loss of access to the program due to illness or minor paperwork errors. The National Defense Authorization Act of 2015 created an advisory board tasked with advising the Department on technical issues regarding the program. The members of this board have not yet been seated. Earlier this month, the Government Accountability Office (GAO) released a report on the effectiveness of claims adjudication at the Department.

Why didn't the Department wait to propose the new EEOICPA rules until after the Department adopts the recommendations of the GAO report and until after fully seating the congressionally-mandated advisory board and allowing it the chance to review the program and make recommendations as well?

Answer. The GAO found that the Office of Workers' Compensation Programs (OWCP) generally followed its policies and procedures in adjudicating claims under Part E of EEOICPA. The GAO made two recommendations: 1) to require supervisory review of all decision letters prior to issuance and 2) to require documenting final review of the Site Exposure Matrices for updates prior to issuing a recommended or final decision denying a claim. OWCP is in the process of implementing both of these recommendations. Neither of these recommendations requires regulatory changes, nor do the recommendations relate to the proposed regulatory changes in the EEOICPA Notice of Proposed Rulemaking (NPRM) published on November 18, 2015.

The members of the Advisory Board on Toxic Substances and Worker Health have been fully seated since March 21st, and, in consideration of your feedback and others, on April 5th, we reopened the comment period for the NPRM until May 9, 2016. The reopening of the comment period allowed the Advisory Board the opportunity to review the NPRM and at their first meeting on April 26–28, 2016 to discuss and agree to any recommendations regarding the proposed changes to the regulations that fall within the four areas set out in the Act creating the Board. The Department provided members of the Board with an overview of the NPRM in advance of the Board's first meeting. We alerted your staff of the extension, and a Federal Register Notice was posted to inform the public. Additionally, stakeholders are welcome to provide formal feedback as part of the EO 12866 process.

SAFETY AT JOB CORPS CENTERS

Question. In September 2015, Senator Isakson and I wrote a letter to you asking about safety at Job Corps Centers after two students were killed at two different Job Corps centers last summer. I understand the Department has made safety at Job Corps centers a priority after those incidents, but since then at least two more assaults have occurred—one just earlier this month involving the assault of a 16-year-old girl in Kentucky. The Department's efforts to date haven't stopped the assaults against students in the Department's care.

Is the Department going to do something different than what it has done before to stop the violence?

Answer. The Department continues to initiate new changes and takes seriously its responsibility to ensure the safety and security of students participating in the Job Corps program, which helps disadvantaged young people overcome obstacles and become successful participants in America's workforce. More specifically, the purpose of the Job Corps program is to "assist eligible at-risk youth, which includes those who have been connected to the criminal justice system, to connect to the labor force by providing them with intensive social, academic, career and technical education, and service-learning opportunities."⁷ The Job Corps program is often the last chance that participating youth have to change the direction of their lives and become productive participants in the labor force. Job Corps strives to meet students' social and academic needs while also ensuring policies and procedures are in place so that students can learn and grow in a safe environment.

The Office of Job Corps has taken a number of steps over the last 18 months to improve safety and security, and additional initiatives are currently underway. Job Corps now regularly conducts data-based center risk assessments to identify those centers with indications of safety and/or security concerns. This allows the program to target resources on prevention and assistance at the centers most at risk. As a result of these assessment, between August 2014 and August 2015, the Department conducted visits at 22 centers, 18 of which were unannounced and 4 of which were identified as having potential zero-tolerance policy enforcement issues but were already scheduled to receive Regional Office Center Assessments (ROCAs). Of the 22 visited, 13 received more than one visit. Between September 2015 and February 2016, Job Corps conducted another 30 unannounced visits at Centers around the country to evaluate targeted safety and security areas. Team members utilized a newly developed risk assessment tool and evaluated areas such as standards of conduct, rules and sanctions, investigation of incidents, counseling services, center culture, personal safety and security, evening supervision in the dormitories and recreational areas, and campus access procedures, among others. As a result of these later visits, Job Corps took corrective action with 27 centers for a variety of reasons—from inconsistent campus access procedures to non-compliance with counseling requirements, and required each center to submit a corrective action plan for remedying items found not to be in compliance.

In addition, in February 2016, Job Corps revised the Policy and Requirements Handbook (PRH) which contains, among other things, the Student Conduct System to ensure that it supports a safe, secure learning and living environment for all students and staff. All center operators must comply with the new policy per the terms of their contract. The recent revision, reclassified numerous offenses from Level II infractions to Level I zero tolerance infractions that require student discharge for the infraction. These behaviors include: threat of assault; fighting; arrest for a violent misdemeanor; possession, consumption or distribution of alcohol while on center or under center supervision; robbery or extortion; and inciting a disturbance or creating disorder. Additionally, there is a limit to the number of Level III minor infractions, which is 4 in a 60-day period. When a fifth minor infraction occurs, it is elevated to a Level II "Pattern of Minor Infractions" and it is referred to the Fact-Finding Board for adjudication. Further, these changes will help facilitate consistent application across the Job Corps community by clarifying the definition of several of the infractions. The Department believes that these more rigorous and consistently applied student conduct standards will reduce the potential for violent incidents at the centers, and result in the immediate separation of any student who engages in violent behavior.

Additionally, in the fall of 2015, the Department began requiring operators, as part of their proposal to operate a Job Corps Center, to describe their approach to student safety and behavior management. We recently issued solicitation for a new support contract to conduct national criminal background checks in order to provide a more comprehensive and uniform system for screening applicants' criminal background information. The Department anticipates the contract will be awarded June 2016. Further, ETA is in the process of contracting for a small number of operators who would be available to take over the operation of a center where serious incidents result in the termination of a contract or a decision not to exercise an option year. This will result in a more nimble contracting process should serious issues arise. Job Corps has also developed a service plan to provide a live, 24-hour safety hotline for Job Corps students and staff to report safety and security related issues. A solicitation for provision of these services was issued on April 1, 2016. Finally, Job Corps is developing revised admissions procedures to ensure that Job Corps enrollees are a good fit for the Job Corps program and can participate successfully without interfering with other students' progress.

⁷ WIOA Sec. 141(1)(A).

The President's 2017 Budget includes additional resources to improve safety and security at Job Corps centers across the Nation. Specifically, the Budget includes \$10 million in the Operations activity to upgrade Job Corps safety and security for students and staff. The requested increase will be used for mental health counselors; increased security personnel staffing; training for staff to help them to detect security risks; additional staff to conduct productive evening activities; and an integrated approach to behavior management. There is also a requested increase of \$20 million in the Construction activity that will allow the Department to conduct vulnerability assessments and address the most urgent physical security needs, such as security cameras, perimeter fencing, site lighting, electronic badge security, and enhancements to emergency communications systems at Job Corps Centers.

Any act of violence on a Job Corps center is unacceptable. As you can see, actions we have already taken have resulted in meaningful improvements. You can be assured that the Department will continue to work closely with center operators and other stakeholders to provide a safe and effective learning environment for all Job Corps students.

FINALIZING THE LM-21 FORM

Question. The Labor-Management Reporting and Disclosure Act (LMRDA) "advice exemption" or "persuader" rule was recently finalized. However, the LM-21 form, the form on which employers have to report their persuader activities, is not scheduled to be proposed until this fall. I am concerned that the rule will infringe on employers' ability to access legal advice. I'm also concerned that the rule was finalized without a final LM-21 form, because the form will include the detail required to be reported.

Why did the Department finalize the persuader rule prior to finalizing the LM-21 form?

Answer. On March 24, 2016, after an extensive comment period, the Office of Labor-Management Standards (OLMS) published a final rule that revised the interpretation of the "advice" exemption of section 203(c) of the LMRDA. The Persuader Rule will not infringe on employers' access to legal advice because none of the information required to be reported (e.g., the identity of the parties, terms and conditions of the agreement, and types of persuader activities undertaken) is covered by the attorney-client privilege. Privileged information is excluded from the reporting requirement by statute.

The Persuader Rule did not necessitate changes to the LM-21 and, therefore, the LM-21 did not need to be completed at the same time as the rule. Nevertheless, in a separate action, the Department of Labor's spring 2016 Semi-Annual Regulatory Agenda reports that OLMS intends to pursue a rulemaking to revise the Form LM-21, Receipts and Disbursements Report, in September 2016. The rulemaking will propose mandatory electronic filing for Form LM-21 filers, and it will review the layout of the Form LM-21 and its instructions, including the detail required to be reported.

In light of changes to the Form LM-20 and potential changes in Form LM-21 reporting obligations that may be proposed in the upcoming rulemaking, OLMS announced on April 13, 2016, that a special enforcement policy will apply. Those filers of Form LM-20 who must also file a Form LM-21 will not be required to complete two parts of the LM-21. Specifically, OLMS will not take enforcement action based upon a failure to complete the following Parts of Form LM-21:

- Part B (Statement of Receipts), which ordinarily requires the filer to report all receipts from employers in connection with labor relations advice or services regardless of the purposes of the advice or services, and/or
- Part C (Statement of Disbursements), which ordinarily requires the filer to report all disbursements made by the reporting organization in connection with labor relations advice or services rendered to the employers listed in Part B.

This special enforcement policy was effective immediately upon publication of the policy on April 13. It will remain in effect until further notice, and the Department will provide no less than 90 days' notice prior to any change in this policy.

ROAD TO RETIREMENT SURVEYS

Question. On February 29, the Department issued a proposed information collection request regarding the "Road to Retirement" surveys. The Department states the research study is being undertaken because, "relatively little is known about how people make planning and financial decisions before and during retirement." I believe this request for information suggests the Department is blindly moving forward with the fiduciary rule, even though it has the potential to cut off access to affordable retirement advice for millions of Americans and their families. In re-

sponse, a spokesperson at the Department stated that the request for information would “build upon our already robust body of retirement research.” The request for information about having relatively little information contradicts the Department’s statement about having a robust amount of information.

Why is the Department requesting this information if its knowledge is robust and, if it is not so robust, why move forward with the fiduciary rule before gathering additional information about how it may impact access to retirement education and advice for millions of Americans?

Answer. The evidence already available is indeed robust that financial advisers’ conflicts of interest are costly to retirement investors. That evidence is detailed in the regulatory impact analysis that the Department issued together with the new final fiduciary rule. A review of the evidence demonstrates that the rule itself is well grounded and has the potential to deliver gains for retirement investors.

The study the Department is pursuing is a broad examination of how U.S. families prepare financially for retirement. The survey has an unprecedented level of detail about retirement preparation throughout adulthood. It looks at all major aspects of families’ decisionmaking and planning relevant to this preparation. The scope of the study is far broader than the question of conflicts in investment advice, and broader even than investing generally, but encompasses how, when, and how much is saved, and how savings is translated into consumption in retirement. It will provide data on who has access to retirement plans, the types and features of those plans, and who chooses to participate in them. It will inform future research and policy toward a range of issues including, for example, effective disclosure, financial education and literacy, and plan design. Building upon our already robust body of retirement research does not diminish the validity of our efforts to reduce conflicts of interest in retirement advice that cost workers many billions of dollars each year.

ADVICE GAP CREATED BY UNITED KINGDOM FIDUCIARY RULE

Question. At the hearing, you denied that the United Kingdom’s (UK) similar fiduciary rule created an advice gap for low- and middle-income individuals. The Department’s economic analysis denied that an advice gap existed in the UK and you also previously testified that there was no advice gap. However, on March 14, 2016, the British Government published a report finding that the similar fiduciary rule did create an advice gap, disproportionately harming lower-income individuals. The report further states that almost 70 percent of advisors rejected small customers in the past year, and it’s becoming more common for advisors to require at least 100,000 [British Pounds] in assets before providing advice. Experts, including Kent Mason of Davis and Harman LLP, are saying the Department’s fiduciary rule, if finalized similar to its proposal, will have the same effect as the UK’s fiduciary rule.

Are you worried about the impact the final fiduciary rule will have on lower- to middle-income individuals and do you believe the Department should study the impact the rule has on Americans’ access to advice after it is implemented?

Answer. While some advisers left the market soon after the passage of the UK’s Retail Distribution Review and some have increased minimum asset requirements in the UK, overall the availability of advice does not appear to have been significantly reduced, and some of those that left have since returned to the market. The UK’s experience lends support for the Department’s conclusion that its reforms, which do not ban commissions or increase adviser qualifications like the UK reforms, are unlikely to result in a significant diminution of advice for small and middle-income investors. In fact, the FAMR report mentioned above also provides positive data on the supply-side of the financial advice market in stating that “some larger firms have recently signaled a return to the advice market and in some cases this is being facilitated by effective and creative use of new technologies to increase the number of customers they serve.” The Department does anticipate some changes in the industry as firms compete in a new environment and as the cost of advice becomes clearer to customers. The Department will continue to watch these changes carefully and will provide additional guidance and assistance as needed.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

WAGE AND HOUR DIVISION FISCAL YEAR 2017 BUDGET REQUEST

Question. Mr. Secretary, as I mentioned in my opening statement, there are a range of views in the Senate about whether we should raise the minimum wage or increase overtime protections. I believe we should do both, because they would benefit working families. The Department’s Wage and Hour division enforces these protections as they exist today in an environment with increasingly complex business

models that make it more challenging to ensure employer compliance. Despite these challenges and a flat budget, last year the division collected almost \$250 million in back wages for more than 240,000 workers. That figure includes \$74 million for low-wage workers. I see that your budget requests an increase for the Division so that it can do more on behalf of workers.

Unfortunately, resources will almost certainly be constrained this year, so I'd like you to tell us what impact another year of flat funding would have on the Division and its ability to ensure workers, especially those making modest wages, are treated fairly.

Answer. Flat funding would hinder the significant progress made in rebuilding and strengthening the agency's ability to carry out our mission. Since fiscal year 2010, those efforts have included restoring investigator ranks that had reached their lowest level since the 1970s; reviving the use of all available enforcement tools to achieve broad, sustained compliance, including enhanced compliance agreements as well as liquidated damages and civil money penalties; and developing an evidence-based, data-driven approach to enforcement that aims for compliance at the industry level. Flat funding risks eroding those gains, particularly as the agency continually confronts the limitations of our infrastructure in carrying out our work. In fiscal year 2015, WHD (Wage and Hour Division) directed investigations found \$8,900 per investigation and over \$800 per worker in directed investigations. Flat funding inhibits WHD from increasing its ability to conduct more directed investigations, which keeps those lawfully earned wages out of the hands of workers. Additional funding would allow WHD to increase the amount of back wages it recovers. At WHD's fiscal year 2017 request level, the increased FTE could boost back wage recovery by at least \$50,000,000 for an additional 50,000 workers.

WHD focuses on industries that employ significant numbers of low-wage workers that are often the least likely to complain and the most likely to suffer workplace violations. In fiscal year 2008, WHD found back wages of \$57.5 million in low-wage industries for 76,900 workers. In fiscal year 2015, WHD found \$74.3 million in low wage industries for 102,000 workers. That is more than a 29 percent increase in back wages and more than a 32 percent increase in the number of workers. Those gains were achieved through investments in the WHD workforce and infrastructure since fiscal year 2010. Also importantly, WHD aims for systemic compliance at the industry level, which requires new levels of coordination around enforcement, media, and stakeholder strategies; robust data analysis, research, and evaluation capabilities; and an infrastructure that fully supports the training, technology, planning, and communication needs of the organization. At the same time, a recent study on wage violations in New York and California demonstrates that rampant minimum wage violations account for an estimated \$33–49 million total in lost weekly income in those States (estimates vary by the two data sources used).⁸ This study did not even account for overtime violations. Strategic enforcement is critical to ensure that DOL's limited resources have maximum impact, but flat funding for DOL means that thousands more families will be driven further into poverty due to DOL's limited resources to enforce the law.

The agency is confronting the limitations of working with technology, operations, and systems built for a different era. Notwithstanding its outdated information systems, through strategic use of resources WHD has been able to increase its recovery of back wages, including for low wage workers. To continue achieving system-wide impacts, however, WHD requires additional capacity, including more staff, to cover more of the 7.3 million workplaces in this country and conduct outreach, as well as updated information systems and data analytic capabilities, which will allow us to continue to focus on industries with the largest compliance problems and the most vulnerable workers. We will do this through a more in-depth understanding of industries, business models, and a more coordinated approach to conducting enforcement across networks of businesses, supply chains, or contracting relationships. Our Budget also includes \$5.8 million to replace our aging case management system. A 2011 assessment estimated that moving WHD's applications to a cloud-based system would allow greater investigator productivity, enabling investigators to handle an additional case per quarter, or nearly 4,000 additional compliance actions a year.

The agency must also update and modernize its approach to compliance assistance. Employers who are aware of their legal responsibilities (and the consequences of breaking the law) and workers who are aware of their rights are better positioned to identify and remedy violations, or to prevent them from occurring in the first place. While the agency continues to improve its public-facing website and enforcement database, WHD is also identifying ways to make its administrative data and

⁸ Available at <https://www.dol.gov/asp/evaluation/completed-studies/WageViolationsReportDecember2014.pdf>.

information more accessible and usable to the public, employers, employees, journalists, developers, stakeholders, and the research community. These are the types of critical investments that will be adversely impacted by flat funding, significantly hindering WHD's ability to achieve greater compliance.

EFFECTIVELY COMBATING WAGE THEFT AND LABOR LAW VIOLATIONS

Question. As you know, I have introduced a bill to tackle wage theft. Do you believe that strengthening the Fair Labor Standards Act would help in combatting wage theft?

Answer. Although the Administration has not taken a formal position on the Wage Theft Prevention and Wage Recovery Act, we are supportive of Congressional consideration of ways to provide that workers receive a fair day's pay for a fair day's work and to improve the provision of basic information to workers of how their pay was calculated. As a general matter, the Department believes that it is important for workers to have the information that they need to ensure that they are being paid all of the wages due and to assert their rights if they are not. As a normal part of doing business, most employers give their workers a pay stub with basic information about their hours and wages. As you know, President Obama took an important step forward in providing additional paycheck transparency to workers as part of the Fair Pay and Safe Workplaces Executive Order. Once implemented, this Executive Order will require covered Federal contractors and subcontractors to provide their workers on covered contracts with information each pay period regarding how their pay is calculated. The Order is an important step for workers and also for the Federal agencies, because it means that any pay-related problems on Federal contracts can be caught early before they become more costly to resolve.

Question. Can you comment on the strategies being adopted by the Division to achieve the broadest possible compliance across industries?

Answer. WHD focuses resources in industries where evidence shows a history of violations and where large numbers of vulnerable workers are found. WHD prioritizes enforcement in areas where issues can be addressed systemically. Data show that agency-initiated investigations and the strategic use of enforcement resources have particularly positive results for low-wage workers. In fiscal year 2015, WHD maintained increases in the percent of agency-initiated investigations, in contrast to investigations that are responsive to complaints, with 42 percent directed investigations—a 25 percentage point increase from fiscal year 2010. The agency found violations in 79 percent of these agency-initiated investigations in fiscal year 2015, demonstrating that the agency is focusing on the right industries and the right workplaces within those industries. Even with the focus on low-wage workers, in fiscal year 2015, compliance actions in low-wage industries resulted in more than \$1,000 in back wages per employee paid in violation.

Question. How does the Division decide where to target its investigations to industries with the greatest likelihood and concentration of labor law violations so that it's not wasting its resources on law-abiding businesses?

Answer. The laws enforced by WHD apply to over 7.3 million establishments and protect over 135 million workers. We will never have enough investigators to examine every business. Our strategies recognize the need to prioritize and direct resources based on where data and evidence show the problems are largest, where emerging business models lead to violations, and where workers are least likely to exercise their rights. WHD also seeks to impact compliance beyond the investigated employer, so that enforcement actions resonate throughout a particular sector and increase compliance across the entire industry, leveling the playing field for law-abiding businesses. A growing percentage of investigations are directed, i.e., agency-initiated, which allows the agency to carry out strategies that aim for industry-level compliance.

Since undertaking this strategic approach, WHD has increased its performance results. To start, the agency has increased the number and percent of directed investigations, that is, investigations based on objective evidence that indicates a likelihood of finding violations. In fiscal year 2015, WHD maintained increases in the percent of directed investigations with 42 percent a significant increase from fiscal year 2010. Evidence that WHD has improved its ability to identify violators is that the percentage of directed cases in which WHD finds no violations declined from 35 percent in fiscal year 2009 to 21 percent in fiscal year 2015. In fact, in 2015 the "no-violation rate" for directed investigation was almost the same as for investigations triggered by a complaint: the no-violation rate for complaint cases was 18 percent versus 21 percent for directed cases, suggesting that directed investigations, despite the absence of on-the-ground information from complainants, are nearly as accurate as a complaint in finding employers with violations.

The benefit of directed investigations is that it allows WHD to protect workers in industries where workers are unlikely to file a complaint, either because of intimidation, fear of interacting with the government or a lack of knowledge of their rights. By using sound empirical evidence and robust data, WHD has been able to initiate investigations without information from complainants, without increasing the likelihood of wasting resources on investigating law-abiding employers. Directed investigations also allow WHD to focus efforts, including stakeholder engagement, communication, and outreach to affect compliance more broadly within an industry.

PAID LEAVE ANALYSIS GRANT

Question. Mr. Secretary, I was pleased that the Department's Women's Bureau awarded a Paid Leave Analysis grant last fall to my home State of Washington. These funds will help the State study options for implementing Washington's Family Leave Insurance Act of 2007. I see that the budget proposes additional funding for the Women's Bureau to help more States study options for paid leave programs. It also proposes \$2 billion in mandatory funding to help up to 5 States cover the initial costs of their programs. I believe we need to strengthen family leave policies. Currently, more than 40 million workers do not have access to paid sick days, a problem that a bill I introduced with Congresswoman DeLauro—the Healthy Families Act—would help address. And Federal contractors will provide up to 7 days of paid sick days thanks to the executive order President Obama issued last fall. And, I have been pleased to see more States and communities, such as Seattle, adopt paid leave programs.

Mr. Secretary, what impact are these policies having on local business where paid leave programs have been implemented?

Answer. In the three States that have implemented paid leave programs (California, New Jersey, and Rhode Island), businesses have benefited from a more stable workforce without having to incur the costs of establishing a paid leave program by themselves. Businesses and workers can share the costs broadly, limiting the impact on any one person or company. In fact, research has shown that paid leave increases the probability that women continue in their job after childbirth, rather than quitting, saving employers the expense of recruiting and training new employees.⁹ After California and New Jersey enacted paid family leave benefits, most businesses in those States reported positive or neutral experiences and few negative effects.¹⁰ In California, a study funded by the Department of Labor on California's Paid Family Leave law concluded that the law had not caused major problems for California's employers.¹¹ Approximately 90 percent of employers surveyed reported positive effects or no noticeable effects in terms of productivity, profitability, retention, and morale. Small employers reported fewer problems than large firms. Another study of California's law determined that the business community's concerns that the law would impose extensive new costs and become a serious burden for employers proved unfounded; after more than 5 years' experience with paid family leave, the vast majority of employers reported that the law had minimal impact on their business operations.¹² Similarly, a study of Rhode Island's paid family leave law found little evidence of significant impacts to employers, and the results were suggestive of employer support for paid family leave laws.¹³

Question. Are they hurting businesses or reducing employment?

Answer. No, in the three States that have implemented paid leave programs (California, New Jersey, and Rhode Island), businesses have benefited from a more stable workforce without having to incur the costs of establishing a paid leave program by themselves. Businesses and workers can share the costs broadly, limiting the impact on any one person or company. In fact, research has shown that paid family and medical leave increases worker retention and reduces turnover, saving businesses significant costs associated with replacing employees. In New York, more than one hundred business owners and business associations formally expressed

⁹ Available at <https://www.dol.gov/asp/evaluation/completed-studies/WageViolationsReportDecember2014.pdf>.

¹⁰ IMPAQ International. January 2012. Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada.

¹¹ The report is available at www.dol.gov/ilab/reports/pdf/Public_Report_of_Review_of_US_Submission_2015-01.pdf.

¹² Appelbaum, E. and Milkman, R. 2011. "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California." <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

¹³ Bartel, A. et al. 2016. "Assessing Rhode Island's Temporary Caregiver Insurance Act: Insights from a Survey of Employers." U.S. Department of Labor. Retrieved from http://www.dol.gov/asp/evaluation/completed-studies/AssessingRhodeIslandTemporaryCaregiverInsuranceAct_InsightsFromSurveyOfEmployers.pdf.

support for the State's paid family leave insurance program, recognizing that such a program "will help—not hurt—their success."¹⁴

Question. And, what have they meant for working families?

Answer. The laws have had a positive effect on working families. Paid leave helps individuals deal with important life events, such as a serious personal or family illness or to care for a new child or an aging parent, without jeopardizing their economic security. When workers are forced to take unpaid leave, they manage the financial impact by cutting back spending, spending down savings, putting off paying bills, accumulating debt, and/or even going on public assistance. Paid leave reduces the chance of working families needing to make these tough decisions. Research on California's Paid Family Leave program shows that uptake of paid family leave increased among the less-educated, unmarried and minority mothers who took the shortest leaves before the law took effect.¹⁵ Paid parental leave can increase female labor force participation by making it easier for women to stay in the workforce after giving birth, which contributes to economic growth and can increase women's lifetime earnings. It also has a positive effect on the overall health and wellbeing of parent and child, substantially increasing breastfeeding rates and maternal time spent on child care.¹⁶ When parents are better supported at work through paid family and medical leave, they are also less likely to rely on public assistance benefits. Economists have found that with paid leave, more people take time off, particularly low-income parents who may have taken no leave or dropped out of the work force after the birth. Paid leave raises the probability that mothers return to employment later, and then work more hours and earn higher wages.¹⁷

Although there is less research on the effects of paid leave on employment outside the context of parental leave, studies show these same positive impacts on employment and retention may extend to workers taking leave for other reasons. California's Paid Family Leave program notably increased job retention of workers in "low-quality" jobs (those with lower wages and fewer benefits). When they experienced a triggering event like a serious health problem or a family member needing care, they were more likely to return to work and to their same employer.¹⁸ Moreover, care for adult family members with significant health needs, including ill spouses and aging parents, is a key challenge that affects working families. When workers have access to paid leave for family members' long-term care, as well as acute medical needs, it can reduce work-family conflict and negative employment impacts.¹⁹ The Department's 2015 report titled "The Cost of Doing Nothing" outlines the myriad ways in which paid leave policies help working families, and how lack of access to such policies comes at significant cost.

BUREAU OF INTERNATIONAL LABOR AFFAIRS TRADE ENFORCEMENT

Question. I'd like to follow up on my question related to trade enforcement, particularly your comment that ILAB (Bureau of International Labor Affairs) punches above its weight.

Would you please say more about the outcomes ILAB is achieving for our workers and its partnerships within the executive branch?

Answer. ILAB's efforts, in coordination with the Office of the U.S. Trade Representative (USTR) and the Department of State, are designed to strengthen the monitoring and enforcement of labor provisions of free trade agreements (FTAs) and trade preference programs, and help to level the playing field for American workers and business. Labor exploitation in trading partner countries such as child labor, forced labor, unsafe working environments, or unfair working conditions undermines U.S. workers, U.S. businesses, and U.S. values.

¹⁴ Community Service Society, Press Release, "New York Businesses Support Paid Family Leave" (Mar. 23, 2016), <http://www.cssny.org/news/entry/new-york-businesses-support-paid-family-leave>.

¹⁵ Bartel, A. et al. 2014. "California's Paid Family Leave Law: Lessons from the First Decade." U.S. Department of Labor. Retrieved from: <http://www.dol.gov/asp/evaluation/reports/paidleavedeliverable.pdf>.

¹⁶ Michael Baker and Kevin Milligan. 2008. "Maternal Employment, Breastfeeding and Health: Evidence from Maternity Leave Mandates." *Journal of Health Economics* 27:871–887.

¹⁷ U.S. Department of Labor. 2015. "The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America's 21st Century Working Families." Retrieved from <http://www.dol.gov/featured/paidleave/cost-of-doing-nothing-report.pdf>.

¹⁸ Appelbaum, E. and Milkman, R. 2011. "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California." <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>.

¹⁹ U.S. Department of Labor. 2015. "The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America's 21st Century Working Families." Retrieved from <http://www.dol.gov/featured/paidleave/cost-of-doing-nothing-report.pdf>.

ILAB uses its leverage through trade agreements, trade preference programs, technical assistance grants, reporting, and diplomacy to improve working conditions around the world. ILAB uses its technical assistance grant funding to build government capacity to improve labor rights among trade partners and address the root causes of the worst forms of child labor. Through the Administration's trade agenda, ILAB played a key role in helping USTR negotiate successively stronger labor provisions of FTAs. Under the Trans-Pacific Partnership agreement, the U.S. government negotiated the strongest labor rights provisions of any FTA to date along with consistency plans that will require implementation of critical labor reforms in Vietnam, Malaysia, and Brunei prior to entry into force of the agreement.

These successes are part of a broader interagency effort to make trade work better for workers at home and abroad through greater monitoring and enforcement. ILAB, USTR, and the Department of State's recent work with the Government of Honduras is a strong example of recent bilateral and interagency collaboration to effectively monitor labor commitments under an FTA. ILAB completed a public submission report concerning Honduras that found evidence of labor law violations in nearly all of the included cases and noted serious concerns regarding the Government of Honduras's enforcement of its labor laws.²⁰ Maintaining a constructive working relationship with Honduras throughout the submission review process enabled the Department of Labor, USTR, and State to cooperatively develop and sign a Monitoring and Action Plan designed to address the concerns identified in the submission report.²¹ This was supported by an ILAB technical assistance grant of \$7 million to build the capacity of the government to address the issues identified in the Plan, and will continue to be monitored by the labor attaché, who is expected to be in country later this year.

Likewise, with the Government of Guatemala, ILAB played a critical role in negotiating an enforcement plan to address labor enforcement concerns under the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR). When Guatemala failed to fully implement the plan, ILAB assisted USTR in bringing the U.S. government's first ever dispute settlement case under an FTA, arguing that Guatemala has not complied with the labor provisions of the CAFTA-DR. With ILAB's assistance, the U.S. government also entered into consultations with the Government of Bahrain to address the targeting of union leaders in the 2011 Arab Spring. Since then, Bahrain has reinstated nearly all of the over 4,000 workers dismissed in the public and private sectors. In 2016, ILAB, in close consultation with USTR and State, published a report in response to a labor submission under the Peru FTA that identified significant concerns regarding freedom of association in Peru, offered recommendations to address those concerns, and expressed the U.S. government's commitment to continued engagement with the Government of Peru.²² The report further committed to assess the progress in addressing those concerns within 9 months.

ILAB is investing its resources in putting personnel on the ground in countries where there is a clear plan of action for improving labor rights and a commitment from the trading partner government to implement those reforms. This is critical to ensuring high-level attention and progress on these issues. For example, in 2013, the U.S. suspended Bangladesh's trade benefits under the Generalized System of Preferences (GSP) after an extensive interagency review of workers' rights and worker safety. In an effort to demonstrate ILAB's commitment to address the issue, ILAB established its first labor attaché at the U.S. Embassy in Dhaka, Bangladesh in August 2014, where she plays a critical day-to-day role supporting the efforts of the U.S. government in working closely with the Government of Bangladesh, unions, and employers in promoting progress for Bangladesh workers on the Labor Action Plan.

Similarly, along with grant funding for capacity building projects in Colombia, ILAB established a second labor attaché in Bogota, Colombia in April 2015 to help coordinate U.S. government efforts with the government of Colombia in meeting its obligations under the free trade agreement and the associated Colombia Labor Action Plan, which ILAB also helped to negotiate. Likewise, ILAB will soon send labor attachés into the field at the Embassies in Hanoi, Vietnam, and Tegucigalpa, Honduras. In the fiscal year 2017 Budget, ILAB requests additional funds to expand the labor attaché program into more trading partner countries, such as Peru, Mexico,

²⁰ The report is available at www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

²¹ This plan is available at www.dol.gov/ilab/media/pdf/Honduras_MAP.pdf.

²² The report is available at www.dol.gov/ilab/reports/pdf/Public_Report_of_Review_of_US_Submission_2015-01.pdf.

Malaysia, Guatemala, and the Dominican Republic, to further their progress on labor rights.

GREEN JOBS ACT OF 2007

Question. Mr. Secretary, your Bureau of Labor Statistics conducted work earlier this decade on measuring green jobs in the economy. The Green Jobs Act of 2007 called on BLS to do this work and the American Recovery and Reinvestment Act provided resources to help get this work started. Unfortunately, across the board cuts in 2013 reduced the BLS budget by 5 percent, and the BLS made the decision to eliminate related programs and products.

Would you please describe the key accomplishments achieved with this funding?

Answer. The fiscal year 2010 Consolidated Appropriations Act included \$8,000,000 in funding to expand several Bureau of Labor Statistics survey programs to collect new data on green-collar jobs in the economy.

With the funding, the BLS produced four “measuring green jobs” products:

- Green Goods and Services (GGS) Industry survey (<http://www.bls.gov/ggs/>): provided data on employment by industry for businesses that produced green goods and services;
- GGS Occupations survey (<http://www.bls.gov/ggsocc/>): provided employment data by occupation;
- Green Technologies and Practices (GTP) survey (<http://www.bls.gov/gtp/>): provided data on the occupations and wages of jobs related to green technologies and practices;
- Green Career Information (<http://www.bls.gov/green/greencareers.htm>): provided career information related to green jobs.

Initially, funding supported the development of the surveys, including collection instruments, systems development and other information technology needs. The first set of estimates from the new surveys were published in fiscal year 2012; the initial green career information product was published in September 2010.

Question. And, what do you think policy makers at all levels lost with the elimination of this BLS data source?

Answer. Anytime we lose funding, the Department and BLS have to make tough choices about how to do more with less. In this case, we made the choice to stop collecting data on green jobs. As a result, policymakers lost sources of information on the green goods and services sector of the economy when green jobs data products were eliminated in fiscal year 2013, including:

- The Quarterly Census of Employment and Wages eliminated the collection and publication of industry employment data on 120,000 establishments in select industries defined as green for the Nation and States; and ceased production of 3,200 green goods and services industry job series.
- The Occupational Employment Statistics program eliminated 10,000 green series on occupational employment and wages data for businesses that produce green goods and services; and ceased to conduct special employer surveys to provide information on the nature of the jobs held by green workers, such as the Green Technologies and Practices survey.
- The Employment Projections program stopped producing narratives on green careers.

PREPARING STATES FOR WORKFORCE INNOVATION AND OPPORTUNITY ACT IMPLEMENTATION

Question. The passage of the Workforce Innovation and Opportunity Act (WIOA) in 2014 represented a bipartisan commitment to support training that prepares workers for the jobs that are available with the skills that businesses need to succeed. I am pleased that we were able to fund increases for training and employment services in 2016, but it's important to note that funding for these programs has remained static over the last three decades while the size of our economy and workforce has more than doubled. WIOA requirements take full effect this summer as States still await the Federal regulations and guidance they will need to comply with the law. Washington State is a national leader in WIOA implementation and I recognize that the Department has been working very hard to ensure that all States are prepared this summer.

Do you still anticipate that the final regulation will be issued prior to the July 1st statutory deadline?

Answer. Yes, the Departments of Labor and Education continue to work aggressively toward making the final regulations publicly available in June 2016.

Question. How is the Department working with States to provide the technical assistance and flexibility they need to be ready to implement the new regulation due out this summer?

Answer. The Department of Labor, in collaboration with our Federal partners, has taken many steps to guide the swift and effective implementation of the law. For example, the Department launched a WIOA resource page on July 21, 2014, to provide State and local leaders, practitioners, and stakeholders with information resources and technical assistance materials. This page had recorded 517,174 total views through March 2016. We also have hosted 28 WIOA technical assistance webinars; shared numerous assessment tools to help leaders at all levels of the public workforce system plan for WIOA implementation; and distributed podcasts and videos describing workforce system best practices and replicable models. In addition, we have shared over 40 pieces of operating guidance for States and local workforce areas on a range of topics, such as transition funding, grant management, youth programming, and governance.

In January 2016, teams from 49 States attended a National Convening that the Department co-hosted with Federal partners and stakeholders. The leadership conversation focused on strengthening partnerships, learning from one another, and sharing best practices in WIOA implementation. We continue to be available as a resource to help States and local areas work through WIOA implementation challenges and take advantage of its opportunities.

States and territories are working hard to bring the principles of WIOA to life, convening their partners to align strategy, service delivery, and performance reporting across programs. Most States and outlying areas already have WIOA-compliant State and local governing boards in place. All States and territories have submitted their WIOA State plans, and reviews of WIOA State plans are underway.

With regard to specific regulatory training, the Department of Labor is working with its Federal partners to develop training on the new regulations, among other necessary technical assistance. We also are collaborating on a monitoring approach that recognizes the transition and transformation of the public workforce system that is currently underway. The Department has issued 19 different TEGs as WIOA Operating Guidance and posted 31 subject-based FAQs specifically addressing expectations for certain provisions of WIOA during implementation. All public guidance and information related to WIOA implementation is available through a WIOA landing page at www.doleta.gov/wioa.

QUESTIONS SUBMITTED BY SENATOR JACK REED

WORKFORCE INNOVATION AND OPPORTUNITY ACT IMPLEMENTATION AND LIBRARIES

Question. How is the Department working with the Institute of Museum and Library Services to engage public libraries in the implementation of WIOA?

Answer. The Departments of Labor and Education continue to work with the American Library Association (ALA) and the Institute of Museum and Library Services (IMLS) to conduct outreach to libraries. This outreach is intended to help libraries understand the vital role that the workforce system plays in providing education, training, and career services to job seekers and provide information about how public libraries can partner with the workforce system, including as a recipient of WIOA funding. As part of this outreach, the Departments conducted a webinar with ALA and IMLS, and maintain regular communication regarding WIOA implementation.

Question. What guidance and technical assistance will the Department provide to ensure that libraries providing workforce development services have access to resources under WIOA?

Answer. WIOA explicitly identifies public libraries as potential partners of the American Job Center network, and acknowledges libraries' ability to provide an expansive array of job search services. The law also recognizes libraries as important providers of federally supported training and employment for adult education and literacy activities. Public libraries may enter into agreements with local workforce boards to provide services. The Departments of Labor and Education are developing additional guidance on how the workforce system can make better connections with libraries and will continue to engage with ALA and IMLS to identify areas where additional guidance and technical assistance is needed.

WORK SHARING

Question. How does the work-sharing or short-time compensation program help States, employers, and employees save money in their UI trust funds, keep workers on the job, and employees connected to the work force?

Answer. Short-Time Compensation (STC) benefits both employers and employees by allowing employers to retain a skilled work force within the affected unit or units through a partial reduction of employees' hours of work rather than laying off some employees within the unit. STC preserves employees' jobs during times of lowered economic activity and cushions the negative impact of the reduced business activity within the unit by permitting employees to collect an STC payment to replace a portion of their lost wages.

Participation in an STC plan allows the employer to retain its trained workers until demand for its products and services resumes, at which point employers have the opportunity to restore hours. Through the duration of the plan, the participating employer can maintain productivity and quality levels because it has the same experienced employees doing the same work. A participating STC employer avoids the costs of having to hire and train new workers when normal business activity levels resume. Also, by participating in an approved STC plan, an employer communicates to its employees (and the local community) that it values the well-being of its workers. In addition, the STC program helps employers keep businesses viable, provides important assistance to workers and their families, and benefits local economies.

STC benefits workers in the affected unit or units by averting the loss of employment during declining business activity. Workers receive an STC payment to cushion the impact of the reduction in the usual hours of work while maintaining health and retirement benefits under the same terms and conditions as though the employee's workweek were not reduced during the duration of the STC plan. Individuals may be able to participate in training to enhance their work skills as part of the STC plan. By participating in the STC program, employees stay connected to their job, continue to apply their skills, and avoid the need to look for alternative employment. Retaining employment and income can be particularly important for a family, especially if other family members lose their jobs or face reduced work hours. Once the economic conditions for the employer improve, the employees can then resume their regular hours of work.

Question. How would an extension of funding encourage additional States to adopt work sharing programs?

Answer. The financial incentives provided under the Middle Class Tax Relief and Job Creation Act of 2012 (the Act) promoted additional State adoption of STC programs and improved administration and promotion of the program.

A total of twenty-eight States amended their STC laws or enacted new STC provisions in their State UI laws to conform to the new definition of STC in the Act. The following seven States enacted new STC programs after enactment of the Act: Illinois, Michigan, Nebraska, New Jersey, Ohio, Virginia and Wisconsin.

Twenty-two STC States received Federal STC benefit reimbursements totaling \$266.7 million between 2012 and 2015. Federal reimbursement of STC benefit costs ended in August 2015. The Act provided for 100 percent reimbursements of STC benefits paid. However, the reimbursement became subject to reductions as a result of sequestration for mandatory budget activities carried out under the Balanced Budget and Emergency Deficit Control Act.

Sixteen States took advantage of available STC grant funds under the Act, totaling \$46.1 million, and are using the grant funds to automate their systems or for other program improvement activities. States are using the promotion/enrollment grant funds to conduct outreach to employers and stakeholders, design and update STC promotional materials, improve STC websites, hire/train staff, and develop data warehouses to identify potential employers that may benefit from the STC program.

The Department believes that an extension of these incentives would result in increased adoption of the STC program and improved administration and promotion of the program, thus saving more jobs in more States. As of February 2016, when the Department released its STC Report to Congress, 570,000 jobs had been saved as a result of STC since the beginning of the Great Recession. The full report can be found at: http://www.ows.doleta.gov/unemploy/docs/stc_report.pdf.

JOB CORPS

Question. What is the process for determining what academic and career training programs are offered at Job Corps Centers?

Answer. One hundred twenty-six Job Corps Centers are operated nationally, and training is provided by a variety of providers, including for-profit companies, com-

munity colleges, national labor organizations, industry organizations, and the U.S. Forest Service. Each center provides a fully supervised program of education, including academic and career training programs, which are selected based on requirements of the Workforce Innovation and Opportunity Act (WIOA), the Job Corps Policy Requirements Handbook (PRH), and through workforce council identification of in-demand industries. The PRH requires instruction in the following content areas:

- Career Technical Training (CTT)
- High School Diploma and/or High School Equivalency
- Reading
- Math
- English as a Second Language
- Information Technology
- Wellness
- Drivers Education
- Financial Literacy

In accordance with WIOA, each Job Corps center must establish a workforce council that includes representatives of private sector employers, labor organizations (where present), employees, and Job Corps enrollees and graduates. In the case of a single-State local area, the workforce council must also include a representative of the State Board. The workforce council must work with local boards and review Labor Market Information (LMI) to recommend in-demand industry sectors or occupations of focus, determine employment opportunities that students are well suited for, identify the skills and education necessary to obtain employment, and recommend career and technical training that should be implemented at the center.

Job Corps has partnerships with local boards, American Job Centers, workforce councils, numerous business industry associations, credentialing agencies, and national labor organizations. These entities provide guidance consistent with WIOA requirements on current and projected in-demand industries and associated occupational skill requirements and industry-sponsored certifications needed to fill those jobs.

Question. What steps is Job Corps taking to ensure that the academic and career training programs are meeting employer needs nationally as well as locally?

Answer. In addition to the approach outlined above, on an annual basis, the Office of Job Corps conducts Career Technical Training (CTT) performance reviews that examine the overall grades, credential attainment rate, and placement ratings for all CTT programs. This national performance audit ensures strong alignment between employer needs and center offerings.

At the national and regional level, Job Corps continually develops major industry partnerships with large, national employers as well as with national labor organizations and business and industry associations in order to provide both work-based learning and job placement opportunities. These partnerships allow students to participate in pre-apprenticeship and apprenticeship training programs and have access to job placement support from union apprenticeship programs, union contractors, and major employers.

Job Corps' relationships with employers, unions, apprenticeship programs, local boards, American Job Centers, business associations, and workforce councils help to ensure that the academic and career training programs are meeting employer needs nationally as well as locally. The changing needs of academics and industries are being monitored and modifications are made to the Job Corps program to provide the best academic and career technical training for students and employees for employers. Centers that recently made changes to their offerings, based on relevant labor market information, include:

- The Grafton Job Corps Center, which increased the size of its Advanced Human Service Worker-Residential Advisor program and its Clinical Medical Assistant program. Both residential advisors and medical assistants are considered "Bright Outlook Occupations" by O*NET, a DOL-sponsored database of occupational information. In addition, the Bureau of Labor Statistics (BLS) projects job openings for these two occupations to outpace national and Massachusetts State averages from 2012 to 2022.
- The Miami Job Corps Center, which added a United Brotherhood of Carpenters (UBC) Carpentry Pre-Apprentice program. The Bureau of Labor Statistics (BLS) projects carpentry to be among the fastest growing occupations from 2012 to 2022 in the State of Florida, with an expected change of 34 percent. The State is also currently ranked third in the country in terms of employment levels for the occupation.
- The Turner Job Corps Center, which added an International Masonry Institute (IMI) Tile Setting Pre-Apprentice program. Regional labor market information

supported this request, with continued high demand from employers and high Job Training Match placements expected. In Southwest Georgia, where the center is located, BLS projects the employment rate for tile and marble setters to grow 25 percent between 2010 and 2020, faster than regional and national averages.

Job Corps also leverages employer partnerships to increase opportunities for graduates. A recent example is a new relationship with MasTech, a company based in Pittsburgh, PA. MasTech is the second largest Hispanic-owned company in America and a premier company for electric, natural gas, and fiber-optic infrastructure. The company partnered with the Overhead Lineman/Smart Grid Advanced Training program to offer jobs to 26 members of the Oneonta Job Corps Academy. Once they finish their training, the Lineman graduates will work on the FCC's Connecting America broadband project in North Carolina.

The fiscal year 2017 budget includes two requests that we believe will help with this work. The first is an increase of \$5,000,000 to introduce a suite of demonstration pilots to test a range of novel approaches that can be implemented over a multi-year period to improve student outcomes. In order to align with the Job-Driven Training vision strategy of promoting what works, Job Corps will use its demonstration authority to experiment with evidence-based innovative models to achieve improved results for students. More specifically, Job Corps is considering models that would create career pathways, engage employers, and manage behavior. Potential options include blended academic and occupational training combined with work experience in a high-demand field; a residential model for at-risk youth with a rigorous academic, college preparatory and career focus; dual enrollment in Job Corps and community college; or other innovative models that integrate cognitive and non-cognitive skills training. A second requested increase of \$12,127,000 will be used to modernize curricula, upgrade equipment to meet industry standards, refine training to provide skills and credentials that are in high-demand by employers, and undertake actions required for the implementation of WIOA.

UNEMPLOYMENT INSURANCE

Question. During the recovery, we had several disruptions in the availability of emergency benefits for job seekers. These disruptions hurt workers, slowed the recovery, and strained the States charged with administering the program.

How does the Department's UI proposal reflect the lessons learned during that period?

Answer. During the Great Recession, economists repeatedly pointed to Unemployment Insurance (UI) as one of the fastest ways to generate economic activity in communities and to stabilize the economy, as it reduced the potential decrease in the country's Gross Domestic Product by 18 percent.²³ In addition, UI served as a safety net to millions of unemployed workers and their families, keeping them from falling into poverty. At the height of the recession and in the early days of the recovery in fiscal year 2010, an estimated 16.2 million unemployed workers received \$156.4 billion in UI benefits.

As the U.S. economy has continued to recover, however, we have seen the UI system struggle to keep pace, and it is in need of modernization to ensure it can continue to fulfill its important mission. The UI package included in the 2017 Budget is intended to provide the necessary systemic improvements. These proposals are founded on the critical economic lessons learned from the Great Recession and its aftermath, including:

- We need reforms that will support UI trust fund solvency. Most States' UI trust funds were underfunded going into the Great Recession and, as a result, States had to borrow billions of dollars to pay required benefits. Today, three States still have outstanding loans and owe over \$3.3 billion. Seven other States had bond debt of over \$8 billion as of December 31, 2015. In addition, 36 States do not have sufficient reserves in their trust funds to pay for a year of benefits in a normal recession a standard that ETA strongly recommends to ensure long-term solvency. The President's budget includes a trust fund solvency proposal designed to improve the solvency of the UI system.
- We need a permanent Extended Benefit (EB) program that works. The current EB program triggers are not sufficiently responsive to changing economic conditions. The Great Recession started in December 2007, but most States did not trigger on to extended benefits until March or April of 2009, which led Congress to create the Emergency Unemployment Compensation program (EUC) in June

²³ The GDP number is from an IMPAQ study entitled *The Role of Unemployment Insurance as an Automatic Stabilizer During a Recession*, published in July 2010, page 66.

2008. The President's Budget includes a proposal that would establish more effective triggers to fulfill UI's countercyclical purpose and would put in place a permanent tiered program that negates the need for special temporary programs, like the EUC.

- In addition, the current EB program, which provides up to 20 additional weeks of benefits in States with high and rising unemployment, does not provide sufficient help during an economic downturn because it provides too few weeks of additional benefits. As the Great Recession demonstrated, this limitation results in the passage of ad hoc emergency UI programs that begin too late to provide the early stimulus that could lessen the severity of a recession. Gaps in benefits then occur when the short-term emergency program expires and extensions are not passed, which further reduces the value of additional benefits as an economic stimulus.
- We need to stop States from eroding the UI safety net by reducing the number of weeks of available benefits. Nine States no longer have a maximum 26-week benefit period, with some States providing as few as 12 weeks of benefits, which, in many cases, is simply not enough time to help unemployed workers get back to work. The President's Budget includes a proposal that would require States to provide a maximum 26-week benefit period.
- We know the Short-Time Compensation (STC or Shared Work) program works and we need to support more States' adoption of the program and expanding its use in those States that have the program. During economic downturns, STC helps employers retain talent, helps workers defray lost income resulting from reduced hours, and saves jobs from being lost to the economy. Last fall, an employer told us that if this program had not been available, her business would not have survived the recession. We know that countries like Canada and Germany were able to more quickly recover during the recession as a result of their greater use of this type of program. From the beginning of the Great Recession through February 2016, 570,000 jobs had been saved as a result of the STC program. The President's budget includes renewed State incentives to encourage adoption of the STC program for future recessions.
- We need to turn the UI program into a reemployment program to help prevent long-term unemployment. We must build on the proven success of the Reemployment and Eligibility Assessment (REA) program and its successor, the Reemployment Service and Eligibility Assessment (RESEA) program, which reduce UI benefit duration because they return claimants to work faster, saving \$2.60 for every \$1.00 spent. While Congress has appropriated funds for the current temporary/voluntary RESEA program, the President's Budget proposes a permanent program in all States with increased funding to enable targeting of the top one-third of all UI claimants who are most likely to exhaust their benefits, as well as all transitioning military veterans, who often face barriers to returning to civilian jobs. This proposal will help to ensure that these targeted populations get the intensive reemployment services they need to get back to work and prevent long-term unemployment.
- We need new strategies to bring workers who have lost jobs that are unlikely to be available due to shifts in the economy back into the labor market. The President's plan would ensure that workers have access to wage insurance that compensates workers for the lower earnings they initially experience when they must start a new career in a different industry and incentivizes workers to begin new careers rather than remaining unemployed or leaving the labor market altogether.

Question. How can we better connect jobseekers with services like Reemployment Eligibility Assessments/Reemployment Services that have been shown to shorten the time between being laid-off and finding a new job?

Answer. The most effective way to better connect job seekers, particularly unemployed workers, to integrated reemployment services and eligibility assessments is by authorizing a permanent Reemployment Service and Eligibility Assessment (RESEA) program in every State, and providing sufficient funding to enable States to focus on the one-third of claimants most likely to exhaust their benefits and all transitioning veterans receiving Unemployment Compensation for Ex-service members (UCX), as provided in the President's fiscal year 2017 Budget. A permanent program focusing on these populations with greater barriers to employment will provide intensive reemployment services through American Job Centers to help get them back to work while also ensuring their ongoing eligibility for unemployment benefits. Robust reemployment services help targeted claimants develop and implement the reemployment and work search plans that are critical to getting them a job as quickly as possible.

The Reemployment and Eligibility Assessment (REA) program, funded since 2005, has been shown to be an effective tool in reducing improper payments and getting claimants back to work more quickly. To date, the program has been voluntary and in fiscal year 2015 the RESEA program was operational in 48 States. However, only about 16 percent of UI beneficiaries were scheduled for an RESEA or REA in fiscal year 2015. The fiscal year 2017 Budget proposal would make the RESEA program permanent and require it in all States.

The President's RESEA proposal is based on a successful model, established in Nevada, which used an integrated approach to provide both reemployment services and UI eligibility assessments. This approach helps claimants find jobs faster, eliminates payments to ineligible individuals, reduces UI duration, and saves UI trust fund resources by reducing overall benefit payments. Recent research² on that service-delivery model found it to be effective in the following ways:

- Claimants were significantly less likely to exhaust their benefits;
- Claimants had significantly shorter UI durations and lower total benefits paid (1.82 fewer weeks and \$536 lower total benefits paid)
- Claimants were more successful in not only returning to work sooner, in jobs with higher wages, but also in retaining those jobs; and
- \$2.60 of savings was produced for every \$1.00 of cost.

By applying this integrated approach to the long-term unemployed and transitioning veterans nationally, it is estimated that this initiative will reduce the average duration of UI and UCX benefit receipt by 1.4 weeks for claimants participating in the RESEA program and result in benefits savings of approximately \$423 million as a result of the fiscal year 2017 investment. Looking forward, the RESEA proposal will support a more comprehensive approach to reemployment, including strategies to encourage more sophisticated communication between the UI and workforce systems, aided by technology that will allow both systems to view claimant outcomes on a continuum as they move from assessment to services (such as job search and resume writing workshops) to job placement.

OVERTIME REGULATION

Question. I have heard concerns from several Rhode Island colleges and universities about the potential impact the Department's proposed overtime rule would have on their campuses.

Please describe the outreach effort, particularly to the higher education community, in crafting and seeking public comment on the draft regulation.

Answer. Between March 13, 2014, when the President issued a Memorandum directing the Department to update the overtime regulation, and the issuance of the Notice of Proposed Rulemaking (NPRM), the Department conducted an extensive outreach program, holding more than two dozen listening sessions in Washington, D.C., and several other locations, as well as by conference call. The listening sessions were attended by a wide range of stakeholders: educational institutions, employers, business associations, non-profit organizations, employees, employee advocates, unions, State and local government representatives, tribal representatives, and small businesses. This outreach included a May 20, 2014, listening session with the College and University Professional Association for Human Resources that was attended by several individual universities. The Department advised stakeholders to submit any comments or materials that they wanted the Department to consider regarding this rulemaking to the official rulemaking record.

We received comments from colleges, universities, higher education organizations, associations of higher education professionals, and individual higher education professionals in response to the NPRM. Coupled with feedback already received during the earlier outreach, these comments provided the Department with the level of insight from the higher education community needed to produce a quality and responsive regulation.

Question. Please describe whether and how the Department is identifying potential unintended consequences with the proposed regulation and how the final rule will address them.

Answer. We understand this question to be referring specifically to higher education. The Department recognizes the important contributions that higher education institutions of all kinds make to this country. We have taken a very careful look at this issue and determined that the impact on higher education institutions will be limited. The Department has also been working closely with our Federal partners at the National Institutes of Health (NIH) to ensure smooth implementation of the rule. NIH is fully supportive of the increased salary threshold for

postdoctoral researchers, and NIH Director Dr. Francis Collins has announced²⁴ that NIH will increase the National Research Service Awards (NRSA) grants (which fund many postdoctoral researchers' stipends) to levels at or above the new salary threshold.

The Department is committed to thoughtful, responsible implementation, and we are working on a wide range of engagement options, including but not limited to outreach to higher education institutions and organizations interested in the rule. Along with the publication of the rule, the Wage and Hour Division produced detailed Guidance for Higher Education Institutions on Paying Overtime under the FLSA²⁵ in order to help these employers evaluate current practices, understand the unique provisions of the FLSA that may affect them, and choose the appropriate plans for implementation. We welcome hearing from other stakeholders in the higher education community about the type of technical assistance they feel would be helpful.

SUBCOMMITTEE RECESS

Senator BLUNT. The subcommittee stands in recess until 10 a.m. on Thursday, April 7.

[Whereupon, at 11:21 a.m., Thursday, March 17, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 7.]

²⁴ <https://nexus.od.nih.gov/all/2016/05/18/nih-flsa-2016/>.

²⁵ <https://www.dol.gov/whd/overtime/final2016/highered-guidance.pdf>.