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REVIEWING THE PRESIDENT'S FISCAL YEAR 2015 BUDGET PROPOSAL FOR THE DEPARTMENT OF LABOR

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 26, 2014

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Reviewing the President's Fiscal Year 2015 Budget Proposal for the Department of Labor

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Wednesday, March 26, 2014
House of Representatives,
Committee on Education and the Workforce,
Washington, D.C.

The committee met, pursuant to call, at 10:02 a.m., in Room 2175, Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Petri, Wilson, Foxx, Roe, Walberg, Salmon, Guthrie, DesJarlais, Rokita, Bucshon, Heck, Brooks, Messer, Miller, Tierney, Holt, Davis, Grijalva, Bishop, Loebsack, Courtney, Fudge, Polis, Sablan, Wilson, Bonamici, and Pocan.

Staff present: Andrew Banducci, Professional Staff Member; Janelle Belland, Coalitions and Members Services Coordinator; Molly Conway, Professional Staff Member; Ed Gilroy, Director of Workforce Policy; Christie Herman, Professional Staff Member; Benjamin Hoog, Senior Legislative Assistant; Marvin Kaplan, Workforce Policy Counsel; Nancy Locke, Chief Clerk; James Martin, Professional Staff Member; Zachary McHenry, Senior Staff Assistant; Daniel Murner, Press Assistant; Brian Newell, Deputy Communications Director; Krisann Pearce, General Counsel; Molly McLaughlin Salmi, Deputy Director of Workforce Policy; Alissa Strawcutter, Deputy Clerk; Juliane Sullivan, Staff Director; Loren Sweatt, Senior Policy Advisor; Alexa Turner, Legislative Assistant; Joseph Wheeler, Professional Staff Member; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Jody Calemine, Minority Staff Director; Melissa Greenberg, Minority Staff Assistant; Eunice Ikene, Minority Staff Assistant; Brian Kennedy, Minority Senior Counsel; Julia Krahe, Minority Communications Director; Brian Levin, Minority Deputy Press Secretary/New Media Coordinator; Leticia Mederos, Minority Director of Labor Policy; Richard Miller, Minority Senior Labor Policy Advisor; Megan O'Reilly, Minority General Counsel; and Mark Zuckerman, Minority Senior Economic Advisor.

Chairman KLINE. A quorum being present, the committee will come to order. Good morning. I would like to begin by welcoming Secretary Perez.

Good to see you here this morning, sir.

This is the committee's first hearing since he was confirmed as the 26th Secretary of Labor.

So thank you for joining us and we look forward to your testimony.

The purpose of today's hearing is to examine the President's fiscal year 2015 budget request for the Department of Labor. However, as is often the case, budget hearings are about more than dollars and cents.

As the old saying goes, budgets are about priorities. Naturally, budget hearings provide Congress an opportunity to examine and discuss the policies an administration intends to pursue in the coming years.

The authority of the Department of Labor governs practically every private business and affects countless working families. It is a great responsibility and one I am sure that you, Mr. Secretary, take seriously.

Since taking office, you have shown a willingness to work with the committee on a number of important issues, such as the department's unprecedented enforcement of family farms and health care providers serving active and retired military personnel. We haven't agreed on every detail but we appreciate the efforts you have made to address our concerns.

It is my hope that we can build on this progress in the weeks and months ahead. Our nation faces significant challenges that can only be addressed if we work together in good faith, and we all know there is a great deal that demands our attention.

For example, more than 10 million Americans can't find work and roughly seven million are employed part-time but need a full-time job. The labor force participation rate has dropped to levels not seen since the Carter administration, a sign millions of workers are so discouraged with their job prospects that they have left the workforce entirely.

We have a health care law that is discouraging and destroying full-time work. More than one out of every 10 African Americans can't find a job and nearly 47 million individuals are living in poverty. In the Obama economy, stock prices on Wall Street reach record highs while the wages of working families on Main Street remain flat.

We are told time and again a strong recovery is just around the corner if the President is allowed to spend more, tax more, and borrow more. Yet after $17.6 trillion in total spending and $6.8 trillion in new debt, we are stuck in the slowest economic recovery in our nation's history. Despite the obvious fact that the President's policies aren't working, he has once again put forward a budget that doubles down on the status quo.

This fundamentally flawed approach is evident in the President's request for six—six—new job training programs at a cost of more than 10 billion. That is right, the President wants to pile more training programs onto the more than 50 duplicative and ineffective programs that already exist, making a confusing maze of programs even more difficult for workers to navigate.

Taxpayers will be forced to invest in more bureaucracy instead of in the skills and education that will help workers succeed.

Spending more money on a broken system will not provide the support vulnerable workers and families need.

The American people can no longer afford to invest in the President's failed agenda. We need to change course and adopt responsible reforms that will get this country working again. Reforms that will help every individual who wants to enjoy the dignity of work find a job; reforms that will help ensure no one who works full time is forced to live in poverty; reforms that will help provide hope and prosperity for every working family. The policies embraced by the President during the last six years have not moved us towards these goals and his current budget request won't either.

So obviously there are stark differences on how best to move our nation forward. This committee will do its part to find common ground where we can and invest in real solutions that help grow our economy, create jobs, and expand opportunity for all who seek it.

I urge the administration to be a partner in that effort. No executive order or unilateral action can put the country back on track and people back to work.

Mr. Secretary, let's please stop recycling bad policies and start building on the small but encouraging progress we have made in recent months to work together on behalf of the American people.

With that, I will now recognize the senior Democratic member of the committee, Mr. Miller, for his opening remarks.

[The statement of Chairman Kline follows:]

Prepared Statement of Hon. John Kline, Chairman, Committee on Education and the Workforce

Good morning. I'd like to begin by welcoming Secretary Perez. This is the committee's first hearing with Mr. Perez since he was confirmed as the twenty-sixth secretary of labor. Thank you for joining us, Secretary Perez, and we look forward to your testimony.

The purpose of today's hearing is to examine the president's fiscal year 2015 budget request for the Department of Labor. However, as is often the case, budget hearings are about more than dollars and cents. As the old saying goes, budgets are about priorities. Naturally, budget hearings provide Congress an opportunity to examine and discuss the policies an administration intends to pursue in the coming years.

The authority of the Department of Labor governs practically every private business and affects countless working families. It is a great responsibility and one I am sure you take seriously, Mr. Secretary. Since taking office, you've shown a willingness to work with the committee on a number of important issues, such as the department's unprecedented enforcement of family farms and health care providers serving active and retired military personnel. We haven't agreed on every detail, but we appreciate the efforts you've made to address our concerns.

It is my hope that we can build on this progress in the weeks and months ahead. Our nation faces significant challenges that can only be addressed if we work together in good faith, and we all know there is a great deal that demands our attention.

For example, more than 10 million Americans can't find work and roughly 7 million are employed part-time but need a full-time job. The labor force participation rate has dropped to levels not seen since the Carter administration – a sign millions of workers are so discouraged with their job prospects that they've left the workforce entirely. We have a health care law that is discouraging and destroying full time work. More than one out of every 10 African-Americans can't find a job and nearly 47 million individuals are living in poverty. In the Obama economy, stock prices on Wall Street reach record highs while the wages of working families on Main Street remain flat.

We are told time and again a strong recovery is just around the corner if the president is allowed to spend more, tax more, and borrow more. Yet after $17.6 trillion in total spending and $6.8 trillion in new debt, we are stuck in the slowest eco-

nomic recovery in our nation's history. Despite the obvious fact that the president's policies aren't working, he has once again put forward a budget that doubles down on the status quo.

This fundamentally flawed approach is evident in the president's request for six new job training programs at a cost of more than $10 billion. That's right, the president wants to pile more training programs onto the more than 50 duplicative and ineffective programs that already exist, making a confusing maze of programs even more difficult for workers to navigate. Taxpayers will be forced to invest in more bureaucracy instead of in the skills and education that will help workers succeed. Spending more money on a broken system will not provide the support vulnerable workers and families need.

The American people can no longer afford to invest in the president's failed agenda. We need to change course and adopt responsible reforms that will get this country working again; reforms that will help every individual who wants to enjoy the dignity of work find a job; reforms that will help ensure no one who works full time is forced to live in poverty; reforms that will help provide hope and prosperity for every working family. The policies embraced by the president during the last six years haven't moved us toward these goals, and his current budget request won't either.

Obviously there are stark differences on how best to move our nation forward. This committee will do its part to find common ground where we can and invest in real solutions that help grow our economy, create jobs, and expand opportunity for all who seek it. I urge the administration to be a partner in that effort. No executive order or unilateral action can put the country back on track and people back to work. Mr. Secretary, let's stop recycling bad polices and start building on the small but encouraging progress we've made in recent months to work together on behalf of the American people.

With that, I will now recognize the senior Democratic member of the committee, Mr. George Miller, for his opening remarks.

Mr. MILLER. Thank you, Mr. Chairman.

And welcome, Mr. Secretary. Thank you for your partnership and support of hard-working American families.

Since the Great Recession we have made a good deal of progress toward repairing our economy, but much more needs to be done. The good news is that for the past four years the private sector has added 8.5 million jobs and the unemployment rate is down to 6.7 percent. But unemployment is still too high and we still have more than 3.6 million long-term unemployed.

On top of that, we are seeing an alarming growth in income inequality. In the last decade real wages for low-income workers have dropped, middle-class wages are mostly stagnant, and while the top 10 percent have seen double-digit increases.

It is not right that low-wage workers are working harder yet sliding backwards, and while very few wealthiest Americans capture more and more of the gains. This increasing income inequality is holding back our economic growth.

When the very richest make more money, they end up with bigger bank accounts. When low-income and middle-income consumers make more money they spend more money on Main Street at the grocery store, at the shops and the restaurants, generating economic activity that benefits everyone.

In fact, throughout this recession now many businesses have reported after survey after survey that they didn't have enough customers. There wasn't enough demand on Main Street for their goods and their services and it was holding back growth.

As a front page story in the last week's Wall Street Journal pointed out, stagnant incomes have created, quote: "a vicious cycle that has left businesses waiting for stronger spending before they rev up hiring and investment." To grow our economy we need poli-

cies that stop this vicious cycle, policies that boost working families' incomes.

Pending before Congress are two tried and true ways to stimulate that kind of growth: extended unemployment benefits to those who simply can't find work—they are looking all of the time, they can't find it; and the increase in minimum wage so that no one who works full time has to raise their family in poverty.

While the Senate is expected to vote on extending unemployment benefits soon, House Republican leadership continues to refuse to act on either of these measures. This inaction is unacceptable. It also makes the Secretary of Labor's job and the willingness to act all the more critical to address the economic concerns of America's families.

This administration has proven time and again that it is willing to advocate for hard-working Americans, taking decisive action to reward work, to protecting the nest eggs and pensions and 401(k) participants, enforcing and enhancing worker safety and wage laws, and promoting unemployment of veterans—promoting the employment of veterans and individuals with disabilities.

For example, just recently the administration announced plans to update our overtime rules to allow millions of additional workers access to overtime pay. The idea is pretty simple: If you work more you should be paid more.

The President has also recently announced that federal contractors must pay a minimum wage of $10.10 an hour—the first step toward raising the minimum wage for all Americans. I know that both the President and Secretary Perez support my legislation to increase the minimum wage to index it for inflation and provide overdue relief to tipped employees, lifting millions out of poverty.

On the retirement front, the department has been fighting to help 401(k) plan participants protect their hard-earned nest eggs from high fees and to ensure that workers receive the investment advice that is truly in their best interest. At the same time, the department has been fighting child labor abroad and helping to level the playing field for American workers with our trade partners.

Mr. Secretary, I commend you for your leadership in tackling these critical issues, yet we need to be doing more.

Mr. Chairman, in the 40 years I have been in Congress I have never been more disappointed by this committee's repeated failure to address America's critical economic concerns. While the Republican leadership will likely say that they have scores of jobs bills designed to help the economy, most of them are gifts to special interests at the expense of workplace safety, clean drinking water, and the soundness and safety of our financial institutions.

There is still time—not much time—to do better. We should work with Secretary Perez in the final months of the Congress to pass legislation that will increase the minimum wage; tackle wage inequality for women; protect senior citizens, the LGBT workers from discrimination; and provide quality jobs through training to boost employment opportunities.

Mr. Secretary, thank you again for your appearance here this morning and thank you for all you are doing on behalf of America's working families.

I yield back.

[The statement of Mr. Miller follows:]

Prepared Statement of Hon. George Miller, Senior Democratic Member, Committee on Education and the Workforce

Welcome, Secretary Perez, and thank you for your partnership in support of hard-working American families.

Since the Great Recession, we've made a good deal of progress toward repairing our economy, but much more needs to be done.

The good news is that in the past four years, the private sector has added 8.5 million jobs, and the unemployment rate is down to 6.7 percent.

But unemployment is still too high, and we still have more than 3.6 million long-term unemployed.

On top of that, we are seeing an alarming growth in income inequality. In the last decade, real wages for low-income workers have dropped, and middle-class wages have been mostly flat, while the top 10 percent has seen double digit increases.

It's not right that low-wage workers are working harder, yet sliding backwards, while the very few wealthiest Americans capture more and more of the gains. This increasing income inequality is holding back our economic growth.

When the very richest make more money, they end up with ever-fatter bank accounts. But when low- and middle-income consumers make more, they spend more of it at the grocery store, and in shops and restaurants, generating economic activity that benefits everyone.

In fact, many businesses have reported that weak demand is a main factor holding back their growth. As a front-page story in last week's Wall Street Journal pointed out, stagnant incomes have created "a vicious circle that has left businesses waiting for stronger spending before they rev up hiring and investment."

To grow our economy, we need policies that stop this vicious circle—policies that boost working families' incomes.

Pending before Congress are two tried and true ways to stimulate that kind of growth: extend unemployment benefits to those who simply can't find work and increase the minimum wage so that no one who works full-time has to raise their family in poverty.

While the Senate is expected to vote on extending unemployment benefits today, for the moment, House Republican leadership continues to refuse to act on either measure.

That inaction is unacceptable. It also makes the Secretary of Labor's job—and willingness to act— all the more critical to address the economic concerns of American families.

This administration has proven time and time again that it is willing to advocate for hard-working Americans—taking decisive action to reward work, protecting the nest eggs of pension and 401k participants, enforcing and enhancing worker safety and wage laws, and promoting the employment of veterans and individuals with disabilities.

For example, just recently the administration announced plans to update our overtime rules to allow millions of additional workers access to overtime pay. The idea is pretty simple. If you work more, you should be paid more.

The president also recently announced that federal contractors must pay a minimum wage of 10.10 an hour—a first step toward raising the wage for all Americans. I know that both the president and Secretary Perez support my legislation to increase the minimum wage, index it to inflation, and provide overdue relief for tipped employees—lifting millions out of poverty.

On the retirement front, the department has been fighting to help 401k plan participants protect their hard-earned nest eggs from high fees and ensure that workers receive investment advice that is truly in their best interest.

At the same time, the department has been fighting child labor abroad and helping to level the playing field for American workers with our trade partners.

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While the Republican leadership will likely say that they have scores of jobs bills designed to help the economy, most of them are just gifts to special interests at the expense of workplace safety, clean drinking water, and the soundness and safety of our nation's financial system.

There is still time—but not much time—to do better.

We should work with Secretary Perez in the final months of this Congress to pass legislation that will increase the minimum wage, tackle wage inequity for women, protect senior citizens and LGBT workers from discrimination, and provide quality job training to boost employment opportunities.

Thank you again, Secretary Perez, for joining us today.

Chairman KLINE. I thank the gentleman.

Pursuant to committee rule 7(c), all committee members will be permitted to submit written statements to be included in the permanent hearing record. Without objection, the hearing record will remain open for 14 days to allow statements, questions for the record, and other extraneous material referenced during the hearing to be submitted in the official hearing record.

It is now my pleasure to introduce our distinguished witness.

The Honorable Thomas E. Perez was sworn in as the 26th U.S. Secretary of Labor on July 13, 2013. Prior to his confirmation, he served as assistant attorney general for civil rights at the U.S. Department of Justice and as the secretary of Maryland's Department of Labor Licensing and Regulation.

We are delighted to have you here with us this morning, Mr. Secretary. Before I recognize you to provide your testimony let me briefly remind everyone of the five-minute lighting system.

Mr. Secretary, please give your testimony in its entirety. We are not going to fool with the lighting system for that.

But for my colleagues, however, once again I will make every effort to hold us to the five-minute rule for our questioning of our witness so that all members may have a chance to engage in the discussion. I understand that the secretary has a hard stop at 12 o'clock, so I will try to keep it moving along.

Mr. Secretary, you are now recognized to give your testimony.

STATEMENT OF HON. THOMAS E. PEREZ, SECRETARY, U.S. DEPARTMENT OF LABOR

Secretary Perez. Good morning. Thank you, Chairman Kline and Ranking Member Miller and members of the committee. Thank you for the opportunity to talk about the critical work of the Department of Labor.

I know some of you are leaving the House at the end of this term and I wanted to say thank you to Congressman Holt, Congressman McKeon, and Congresswoman McCarthy for your distinguished service.

And, Congressman Miller, I heard that you might not be coming back, as well, and I cannot say enough thank you for your leadership over four decades and your commitment to empowering middle-class families and making sure that we promote workers' rights not just here in the United States but around the globe. We are forever grateful.

In the State of the Union address President Obama laid out a vision based on the principle of opportunity for all. It is a very simple vision: How far you get should depend on how hard you work.

The core pillars of opportunity include: creating more good jobs that pay a good wage, helping people get the skills they need to succeed in those jobs, ensuring that our workplaces are free from discrimination and are safe, making sure our economy rewards the hard work of every American, and giving people the chance to re-

tire with dignity. All of these goals fall directly within the purview of the Labor Department.

We have come a long way in the past few years to emerge from the depths of the Great Recession. Private sector has created over 8.5 million jobs in the last 48 months, where we have seen consecutive growth each month. The economy is unquestionably moving in the right direction.

But opportunity still remains elusive for too many Americans. The President is working tirelessly to pick up the pace of the recovery and ensure that nobody is left behind.

The Labor Department has played a critical role in helping people find work and helping the nation emerge from the worst economic crisis of our lifetimes. Our network of more than 2,500 American Job Centers helps out-of-work Americans access all of the services they need: resume assistance, job leads, career counseling, training opportunities, and more.

At the height of the recession the AJCs were the nation's emergency rooms for job-seekers, administering the critical care necessary to get people back on their feet. And since the recession began we have served, on average, more than 14 million people each year, including more than a million veterans, through our job training and employment services.

The American Job Centers are an important resource for businesses, as well. During the State of the Union the President singled out Andra Rush, a small businesswoman from Detroit, who owns Detroit Manufacturing Systems. Her firm is thriving because she found 700 of her employees through the local American Job Center. We essentially served as her human resources department during her period of exciting growth.

I would like to think of the Labor Department in this capacity as playing a match.com kind of role, where we help workers and employers find exactly the right fit, and different needs for different people in different contexts.

During my eight months on the job I have spoken to dozens of business leaders and CEOs, and to a person they are bullish about the future of America. They all tell me that they want to grow their business and they want to expand, and they also tell me that in order to grow and expand they need a steady pipeline of skilled workers.

So we need to build on our success and we need to fix what isn't working, as well, so that everyone can benefit from the programs that we are working with. And that is why the President has tasked Vice President Biden with conducting a soup-to-nuts review of our nation's training programs. I was with the Vice President yesterday in New Hampshire as part of this initiative.

This review will be guided by the principle of job-driven workforce investment. Its goals are to expand employer engagement and ensure our system is truly demand-driven. If you are going to create jobs you have got to talk to the job creators. We don't train widget-makers if nobody is hiring widget-makers. That is what demand-driven is all about.

We are making sure that we make it easier for people to acquire these in-demand skills. We are working to spur innovation at all levels of the workforce system. We are working to promote what

works in workforce settings and fixing what isn't working. And we are growing and transforming registered apprenticeships to meet the increasing and exciting need for these middle-class jobs.

One of our most important workforce challenges is addressing the needs of the long-term unemployed. Even as the economy recovers, the high rate of long-term unemployment remains one of our most important pieces of unfinished business.

And I will frankly acknowledge that of all the challenges I face as Labor Secretary, this is the one that keeps me up most at night because I have met so many long-term unemployed who are working tirelessly day in and day out to find work. And we need to keep working with them, and we are acting on a number of fronts to help them punch their ticket back into the middle class.

Just yesterday we highlighted in New Hampshire a successful on-the-job training program wherein we subsidize the wages of new hires for a limited period of time. That program has been very successful in getting the long-term unemployed back to work and is a win-win investment for both the worker and the employer alike.

A top priority for Congress is to pass an extension of emergency unemployment benefits, something that has been a bipartisan practice for decades. More than two million people have had this lifeline cut off since December and every day is a struggle for them.

I was very encouraged by the recent bipartisan bill, which was introduced in the Senate and hopefully will receive action in the very near future, and I urge the House to follow suit promptly.

If opportunity means nothing else, it must also mean the right to return home safe and sound after a hard day's work. No person should have to sacrifice their life for their livelihood.

Since OSHA was created in 1970, the number of workers killed on the job has been cut from 14,000 to an all-time low of 4,400 last year in a workforce that is twice the size. And we are working to make similar progress in mine safety.

I talk to employer after employer who recognizes that their most precious resource is their human capital, and it is a false choice to suggest that we either have job growth or job safety.

Rewarding hard work with a fair wage is also central to the opportunity agenda. Too many Americans are working a full-time job and living in poverty. They deserve a raise.

That is why the President so strongly supports your bill, Congressman Miller, to raise the minimum wage to $10.10 an hour.

Just today the Council of Economic Advisors released a report demonstrating how important this is for women, who account for more than half of all workers who will benefit from a minimum wage increase. The workers I speak to need this raise and the businesses that I have heard from recognize that it is the right thing to do and it is the smart thing to do because it reduces attrition, increases efficiency, and puts money in people's pockets, which they spend.

The President has also tasked me with updating and strengthening our overtime protections. Overtime is a pretty straightforward idea: If you work more you should be paid more.

Under the current rules, many salaried employees are barely making enough to keep their families out of poverty, but they are still expected to work 50 or 60 hours a week, and in some cases

more, and they are exempt from overtime protections and therefore all too frequently not receiving a fair and appropriate wage.

Mr. Chairman, the basic bargain of America is that everybody has or should have a chance to succeed. No matter where you started in the race, you can finish it ahead of the pack. No matter the circumstances of your birth, or your zip code where you live in, or what your last name is, you can live out your highest and best dreams.

And that is what we mean by opportunity for all. That is what the Labor Department is committed to every day. That is what gets me out of bed in the morning and that is what excites me about this work.

I am very bullish about our future, and I am very much looking forward to listening and answering your questions today. And thank you for the courtesy you have shown not only today but in our prior meeting, and as well as meetings that I have had with others. I have really enjoyed our interactions.

[The statement of Secretary Perez follows:]

STATEMENT OF
THOMAS E. PEREZ, SECRETARY
U.S. DEPARTMENT OF LABOR
BEFORE THE
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

March 26, 2014

Chairman Kline, Ranking Member Miller, Members of the Committee, thank you for inviting me to testify this morning. I have had the pleasure of meeting and speaking with many of you individually, but today is my first appearance before this Committee. I have been Labor Secretary for eight months now, and I consider it one of the privileges of my job to keep all of our constituents – stakeholders, Congress, and the American public – informed of the critical work being done at the Department of Labor (DOL).

In his State of the Union address two months ago, President Obama laid out a set of concrete, practical proposals to grow the economy, strengthen the middle class, and empower all those hoping to join its ranks. It set the agenda for our work over the next three years – one of opportunity, action, and optimism.

The core principle is as American as they come: the notion that if you work hard and play by the rules, you should have the opportunity to succeed. In America, your ability to get ahead should be determined by hard work and personal responsibility – not by the circumstances of your birth.

Making good on that promise of opportunity is central to the Labor Department's mission. To help create jobs to build a stronger middle class; to invest in human capital to build a skills infrastructure that supports business growth; to give every American the chance to retire with dignity and a measure of economic security; to promote a fair wage and safe working conditions; to help our nation's veterans find a place in the civilian economy; and to help historically marginalized populations, like immigrant communities, move into the economic mainstream. President Obama's opportunity agenda is the Labor Department's agenda.

And to execute that agenda, the President has submitted to Congress a Fiscal Year (FY) 2015 budget request for the Labor Department for $11.8 billion in discretionary funding, along with new, dedicated mandatory funds. The budget includes funding and reforms that will better prepare workers for jobs; protect their wages, working conditions, and safety; provide a safety net for those who lose their jobs or are hurt on the job; and promote secure retirements.

I feel extremely fortunate to be a product of a nation that believes in opportunity. My parents were born in the Dominican Republic and fled the country during the height of the brutal Trujillo dictatorship. They moved to America, got married, and my father served with distinction as a legal immigrant in the U.S. Army. My parents loved this country, and taught my four siblings and me to work hard, aim high, and always make sure the ladder of opportunity is available for others. They raised us in Buffalo, New York. In so many ways, Buffalo's story is the American story, and the values it represents inform my work as Labor Secretary. It is a gritty,

hardworking, humble place – one where country and community trump party or religion, where we are defined by our common values and loyalty to one another.

In the Buffalo of my childhood, a thriving middle-class was the engine of economic growth. Buffalo – and America – offered you a very basic bargain of opportunity. Hard work was rewarded with fair wages and decent benefits. Whether you owned a business or swept the shop floor, you could buy a house, save for retirement, and leave your kids a little better off than you were, as long as you worked hard and played by the rules.

But like so many American communities, Buffalo took a hit. Robotics replaced manpower. Globalization sent jobs overseas. Machine shops ground to a halt. The footholds of middle-class families and businesses began to slip, and that basic American bargain slipped with it. As President Obama has said, the defining challenge of our generation is to restore that bargain and to protect and expand opportunity for America's working families. It is an honor to be here today to talk about the Department of Labor's central role in that effort.

I have spent most of my career in public service at just about every level of government. Each of those experiences has given me a profound appreciation for the impact of partnerships and consensus-building. I had the honor of serving on the Montgomery County Council in Maryland. There is no better way to understand where the rubber meets the road than to serve in local government. Quite simply, we were only as effective as the breadth and depth of the coalition we built. The right hand had to talk to the left – business and labor had to come to the table together; the public and private sectors had to understand each other's needs; and we had to make room at the table for non-profits and other key stakeholders that had important values to add.

When I served as Maryland's Secretary of Labor, Licensing, and Regulation, we had enormous success building an industry-driven workforce system. We were successful because we sat down with leaders from various economic sectors, together with the unions and community organizations serving them, to piece together the specific employment needs of each. We were successful because we listened to Chambers of Commerce and business leaders and engaged them as meaningful partners, and then we sat down with community colleges to implement training programs that fed directly into job openings and led directly to business growth.

My time serving at the federal level has only reaffirmed my belief in the power of such partnerships. Two of the first people I engaged when I set foot in the Labor Department were Penny Pritzker, the Secretary of Commerce and a business leader in her own right, and Tom Donahue, the President of the U.S. Chamber of Commerce. To create jobs, put Americans back to work, and give workers and businesses the skills they need to out-compete the world, everyone must have a seat at the table.

I had the honor of working for the late Senator Edward Kennedy in the mid-1990s. Among the many lessons he taught me was that idealism and pragmatism are not mutually exclusive. So while I am guided by conviction, I am always prepared to seek principled compromise for the sake of progress and for the good of the country.

I have instituted that philosophy at the Labor Department because, ultimately, it improves the quality of our work. In September of last year, the Department published two rules updating regulations under Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA). These laws prohibit employment discrimination against individuals on the basis of disability or veteran status by federal contractors and subcontractors, and they require affirmative action to recruit, employ, train, and promote qualified individuals with disabilities and protected veterans. But the key is this: we took this action only after extensive consultation with stakeholders. We took the time to hear and address both the priorities of worker advocacy groups as well as the legitimate concerns of businesses.

Through collaboration, consensus building, and pragmatic problem solving, the Labor Department put out rules that not only will help thousands of qualified workers with disabilities and veterans find and succeed in good jobs, but will do so while minimizing any burdens necessary to achieve that goal. In a *Wall Street Journal* op-ed, former Pennsylvania Governor and Secretary of Homeland Security Tom Ridge called our rulemaking "a model for how government can work with stakeholders in crafting regulations that are practical and effective."

Our engagement with the business community did not end with the conclusion of the rulemaking process. Over the past six months we have spoken with thousands of contractors at nearly two dozen trainings, roundtables, and listening sessions where we have continued to solicit feedback on how to implement these rules in a way that facilitates the success of both workers and employers. This consultation and outreach is critical to making sure we can attract the best companies to do business with the U.S. Government.

This type of consultation and outreach is critical for rules pertaining to federal contracting, where we strive to make sure we can attract the best companies to do business with the U.S. Government. It is also the approach I strongly believe should guide the Department's rulemaking in general. As the Department moves forward with rules in areas ranging from wage protections to health and safety, we will continue to reach out to industry, employers, workers and their representatives, and other stakeholders to ensure we are taking into account all views and recommendations for how to promulgate policies that achieve the Department's objectives and are also transparent, workable, and enforceable.

I will bring this same level of collaboration and honest dialogue to our work together. So please know that I deeply value your input and I hope to continue to have an open dialogue with the Members of this Committee as we move forward on the critical issues facing our nation.

In his State of the Union address President Obama said, "The best measure of opportunity is access to a good job." So by that measure, we have come a long way since the depths of the Great Recession. America's labor market grew stronger in 2013. The unemployment rate is a full point lower than it was a year ago, and it is below 7 percent for the third straight month following 60 straight months above that mark. Our manufacturing sector is continually adding jobs for the first time since the 1990s. We have cut our deficits by more than half to their lowest share of GDP since before President Obama took office.

In the final quarter of 2013, GDP grew at 2.4 percent – despite the drag placed on the economy by sequestration and a government shutdown – and the fourth quarter of last year marked the 11th consecutive quarter of GDP growth. Private investment again grew faster in 2013 than in the previous year, and American businesses have added 8.7 million new jobs over 48 months of consecutive job growth.

By those measures, we are well on our way to a full recovery. But they do not tell the whole story. They do not mean much to the construction worker who continues to be laid off between sporadic jobs. They do not tell the story of the underemployed, or the factory worker whose application never gets a second look after the human resources department sees she has been unemployed for six months. They do not tell the story of the waitress and mother of three who works full-time but has to depend on public assistance to make ends meet.

That is why one of President Obama's top priorities is an increase in the minimum wage to $10.10 per hour. It has been frozen at $7.25 an hour since 2009. Meanwhile, the price of everything a working family needs to get through their day is going up. A gallon of milk, a gallon of gas, a month's rent, and a pair of children's shoes – of course, they all cost more than they did in 2009. In fact, the purchasing power of the minimum wage has been on a steady decline for many decades. It is worth about 20 percent less than it was when President Reagan took office.

That diminishing value is undermining the economic security of millions of families. It has contributed to deepening inequality, a lack of upward mobility, and shrinking opportunity in America. Minimum wage workers are not just teenagers looking to earn a little extra to supplement their allowances. In fact, only 12 percent of those who would benefit from an increase to $10.10 are teenagers, and the average age of those who would benefit is around 35. To the extent that there is a typical minimum wage earner, she is an adult woman who is a breadwinner and a head of household, responsible for paying bills and raising children.

I have visited with these hard-working Americans and heard heartbreaking stories about what it is like to live at or near the minimum wage. The wrenching decisions that these folks have to make. The daily grind and struggle, the apprehension and anxiety, and the exhaustion and sense of futility. But these are also people with immense pride, dignity, and self-respect. They do not want a handout; they just want a fair day's pay for a fair day's work. I met recently with a man in Connecticut who told me his family has to choose between putting a gallon of gas in the car or buying a gallon of milk for the kids. In New Jersey, I met with a man whose take home pay is so low that he could not afford to buy his son a gift on his 16th birthday. These workers and millions like them deserve action. I have also visited businesses and business owners who have made a conscious decision to pay more than the minimum wage. I have heard their stories and also observed first-hand the many ways in which paying a fair wage helps businesses and their bottom lines. It makes workers happier, more motivated, and therefore more effective on the job. It decreases turnover and all the costs associated with finding and training new workers. Paying a fair wage is therefore not just the right thing to do, it also helps the bottom line. So while the President and I are eager to work with Congress to pass a common-sense minimum wage increase, we are not going to wait for Congress to act. Just over a month ago, the President signed an Executive Order (EO) that will increase the minimum wage to $10.10 for those

working on new and replacement Federal service, construction, and concession contracts, including all individuals with disabilities working under these contracts. These are the people who wash dishes on military bases, serve food to our troops, or serve as nursing assistants in veterans' hospitals. No one who works a full-time job should have to live in poverty. Not anywhere – but especially not in America. And the President is leading by example, showing businesses that they, like the federal Government and its contractors, can reap significant quality and efficiency benefits from paying higher wages. I have had the opportunity to speak with many of you about the Executive Order and I have directed my staff to ensure that we continue reaching out to you and your staffs regarding the implementation of this Executive Order. I welcome your thoughts on this critical matter.

Until we acted last year, nearly two million direct care workers in our country did not have the protection of our minimum wage laws. Roughly nine out of ten are women. Nearly half are minorities. And yet, for almost 40 years, direct care workers have been denied the basic employment rights too many of us take for granted – rights like minimum wage and overtime – with many direct care workers forced to rely on public assistance despite long hours of challenging, often heroic, work. The Department has corrected that, announcing a final rule that gives these nearly two million workers the same basic protections already provided to most U.S. workers – including those who perform the same jobs in nursing homes.

Since the rule was issued, we have continued to work closely with the Department of Health and Human Services, the States, and other stakeholders to implement the rule. We have conducted five public webinars, as well as two webinars with state Medicaid officials in order to make sure that all affected parties know what the requirements are when the rule becomes effective in January 2015. We will continue our meetings with a wide range of stakeholders, including disability, veteran, worker, and elderly groups, to educate them about the new rule and work with them in developing additional materials for their members.

In addition to raising the minimum wage for American workers and families, President Obama has directed the Department to begin the process of addressing overtime pay protections to help make sure workers are paid a fair wage for a hard day's work and rules are simplified for employers and workers alike. The overtime and minimum wage rules are set in the Fair Labor Standards Act, originally passed by Congress in 1938, and apply broadly to private-sector workers. However, there are some exceptions to these rules, which the Department of Labor has the authority to define through regulation. One of the most commonly used exemptions is for "executive, administrative, and professional" employees, the so-called "white collar" exemption. Workers who are paid hourly wages or who earn below a certain salary are generally protected by overtime regulations, while those above the threshold who perform executive, professional, or administrative duties are not. That threshold has failed to keep up with inflation, only being updated twice in the last 40 years and leaving millions of low-paid, salaried workers without these basic protections.

Today, only 12 percent of salaried workers fall below the threshold that would guarantee them overtime and minimum wage protections (compared with 18 percent in 2004 and 65 percent in 1975). Many of the remaining 88 percent of salaried workers are ineligible for these protections because they fall within the white collar exemptions. Many recognize that these regulations are

outdated; New York and California have set higher salary thresholds and businesses and their workers have been able to operate and thrive under those rules. At the same time, employers and workers alike have difficulty navigating the existing regulations, and many recognize that the rules should be modernized to better fit today's economy. Improving the overtime regulations consistent with the recent Presidential Memorandum could benefit millions of people who are working harder but falling further behind. And as part of my commitment to an open process, Department staff, including myself, will be holding listening sessions with industry associations, talking with CEOs of companies, and hosting conference calls with small- and medium-sized businesses. We want to get this right and make the rules work for our businesses.

These priorities fall squarely into the three principles President Obama has laid out: opportunity, action, and optimism.

Opportunity and lasting, broad-based prosperity in this country have always been driven by a thriving middle class – a middle class secure in good jobs, with take home pay that drives consumer spending and builds ladders of opportunity for those striving to join its ranks. But access to those middle-class jobs depends on workers' skills – or their access to a training program that can allow them to acquire those skills. When we invest in the skills of our workers, it benefits our entire economy. Through their hard work and perseverance, American workers have the opportunity to secure their place in the middle class. American businesses have the well-trained workers that allow them to compete in the global marketplace and grow their companies here at home.

I have made it a point to speak with many CEOs in my first eight months on the job, and I have been struck by the consistency of the responses I have gotten in my conversations. Business leader after business leader, representing companies of all sizes in various sectors, has emphasized the absolute necessity of having a pipeline of skilled workers to fuel their company's growth. I have spoken to labor leaders, too, and they also want their members to get the skills they need to compete for jobs in the 21st Century. Business and labor are in agreement – this is a good and necessary shared goal.

Late last year, I helped host a White House event that celebrated our commitment to those values. I joined representatives from companies like Disney and Ford, iconic brands with a rich history of respect for their workers and human capital development through apprenticeships, skills and training investments, and robust labor-management partnerships. These businesses understand that investing in the skills of our nation's workforce is critical to our bottom line and continuing economic recovery. These businesses understand that equipping workers with the skills they need and employers are hiring for is not just a workforce development issue, it is an economic development issue.

But we also cannot afford to waste time, energy, and resources in training for the sake of training. Those investments must lead to good-paying, middle-class jobs that are available today and will be around tomorrow, and that requires giving employers a voice in the process. Under my direction, the Labor Department has made engaging employers in those training programs a priority. The era of what I call "train and pray" is over. In its place should stand training programs developed in conjunction with the needs of local employers – who assist in designing

curricula, donate equipment, have employees serve as instructors, and provide opportunities for on-the-job training.

It is my goal to make industry- and job-driven training the new normal. Employers will engage because they want to know that training programs will deliver the skills they need in their workforce; job seekers will enroll because they know the curriculum gives them the best chance at a middle-class job. In these types of public-private partnerships, the Labor Department can be an active force multiplier, providing grants to expand programs, buy new equipment, turn pilot programs into sustainable business models, or use our bully pulpit to hold up model programs that work and take them to scale elsewhere.

The Trade Adjustment Assistance Community College and Career Training (TAACCCT) program is one of the Labor Department's most powerful tools for building the kind of sturdy skills infrastructure American businesses rely on to grow and remain competitive and workers rely on to put them on pathways to careers that will sustain a middle-class life. In September of last year, we announced the third round of TAACCCT grant awards, which provided 57 grants supporting 190 projects in at least 183 schools in every state plus the District of Columbia and Puerto Rico. All told, we have invested roughly $1.5 billion in grants to community colleges nationwide (with another approximately $450 million to award this year), that build the institutions' capacity to serve the American workforce and allow them to expand innovative training programs.

But here is the most important part: they do so in direct partnership with local employers, the local workforce system and other community groups. Through TAACCCT, institutions of higher education have issued over 27,400 degrees and certificates through the first 2 years of the grant program, helping adults acquire the skills, degrees, and credentials needed for high-wage, high-skill employment. Institutions of higher education have also launched over 1,200 education and training programs since the start of their grants, all released with an intellectual property license that enables the free use and continuous improvement of the materials by others. In many areas these grants have transformed the curriculum offerings of higher education to make them more accessible to working and non-traditional students, including trade-impacted workers. By helping workers get updated credentials or make career transitions to other fields, TAACCCT is one of the tools we can and must deploy to help those people who have been jobless for an extended period of time.

Kenneth Dover is just one individual for whom TAACCCT has made a powerful difference. Kenneth is 26 years old. He served in the U.S. Marine Corps as an ALIMS (Aviation Logistics Information Management Specialist) and is now a student at Cleveland Community College (CCC) in Shelby, North Carolina, where I met him when I visited the school with Dr. Jill Biden last November. Thanks to the latest round of TAACCCT grants, this small school is leading the way in developing training programs for mission critical careers. Having served in the Marines, Kenneth knows mission critical. To help make the transition to a civilian career, Kenneth enrolled in the CCC's Networking Technology program. Even though he is still taking courses, thanks to the TAACCCT-funded program, he is also already working full-time as a Data Center Services Associate with a company that signed on as an employer partner in the college's TAACCCT grant.

The Labor Department supports integrated, collaborative programs like this running all across the country, but the bottom line is we need more. I know, through my conversations with many Members of this Committee, that one area we need to improve upon in the workforce system is accountability and better performance measurement, and that is why we are eager to be a lead partner in the job training review currently being led by Vice President Biden. Where we can replicate programs we know work, we will. Where strategies are ineffective or duplicative, we will divert those resources to more effective models. And as always, our choices on which strategies to fund and expand will be driven by data and evidence – the most successful programs getting people good-paying jobs that are here to stay will be the ones we fund.

The Department of Labor knows how to make decisions based on the evidence. We have made evidence-based decision-making a centerpiece of our work, much of it done through our Chief Evaluation Office. A recent GAO survey of federal managers placed the Labor Department as the most data-driven, evidence-based agency across Federal Government. Evidence-based performance management matters to the lives of the Labor Department's constituents and customers. And the entire nation benefits as we invest in what works and act as responsible stewards of taxpayer dollars.

I suspect that the Vice President's review will underscore what programs like TAACCCT have taught us, namely that industry-driven, strategic investments can dramatically increase the competitiveness of a local workforce. We are doing our best to apply that lesson to the rest of our skills development work in the Department's Employment and Training Administration (ETA).

One of the distinguishing and unsettling features of this recovery has been the persistence of long-term unemployment. If the long-term unemployment rate were at a normal level, consistent with previous recoveries, the overall unemployment rate would be below 6 percent. Last month, as part of a renewed focus on meeting the challenge of long-term unemployment, we announced the availability of $150 million in H-1B money to support "Ready to Work" partnerships. These partnerships will consist of the workforce system, education and training providers, and employers. These grants have a strong role for employers to play in helping training providers define the skills they are seeking and help craft training programs that will meet their needs. In return, employers are asked to make commitments to consider candidates coming out of these programs. These partnerships will illustrate job-driven training at its best. Ready to Work will provide the long-term unemployed with the range of services, training, and access they need to fill middle and high-skill jobs.

But one of the most important things we can do to immediately help the long-term unemployed and their families is extend federal Emergency Unemployment Compensation. Since this lifeline expired, over two million people have lost out on the assistance they desperately need. Although the economy is slowly healing, too many people are still weathering a powerful, devastating storm they did nothing to create. Through no fault of their own and despite their most diligent efforts, so many workers have been unable to find jobs. Many face catastrophic situations, in danger of losing their homes and unable to support their families. Extended unemployment benefits, even as the economy continues to rebound, is a proud bipartisan tradition. This version

of the program was first passed by a Republican Congress and signed by President Bush in 2008. Failure to extend these benefits at a moment when long-term unemployment is this high is historically unprecedented. I am encouraged that the Senate has come to a bipartisan agreement and hope that this legislation can move quickly to help out of work Americans get the help they need.

While we need to provide the lifeline of extended unemployment benefits, we must also continue our effort to get those who have lost their jobs back to work. To have the strongest possible workforce system, we need help from Congress. Reauthorization of the Workforce Investment Act (WIA) is long overdue, and I hope we can work together to get it done this year. We need a bill that will promote a job-driven approach to workforce development, one that responds to the needs of both employers and job-seekers by preparing them for the jobs that are actually available, while ensuring that job-seekers can readily obtain the training and services they need. We need to align the workforce system with regional economies and establish a more integrated network of American Job Centers. We need to promote innovation and strengthen performance evaluation in the system, so consumers can get information about programs and services that work, and taxpayers know we are spending their dollars wisely. I have spoken with many Members of this Committee already about our shared goal of successful WIA reauthorization and I have learned a great deal from those conversations, especially about where we can find common ground. I look forward to working with members of this Committee and the Senate to achieve this important legislative goal.

ETA is also supporting a high quality workforce investment system through our Workforce Innovation Fund grants. These grants do not just expand opportunity; they will help us deliver services more efficiently and effectively. They make our work better, and the 26 grantees are implementing and evaluating innovative approaches to workforce development that deliver services more efficiently; facilitate cooperation across programs and funding streams; and focus on partnerships with specific employers or industry sectors to develop programs that reflect current and future skill needs. One example of our Workforce Innovation grants is at Pennsylvania's Three Rivers Workforce Investment Board, Inc., which received $3 million and is utilizing a partnership of apprenticeship, education, and workforce system providers to create a pool of qualified job seekers with advanced manufacturing skills. After partnering with Carnegie Mellon University, they are now able to connect those job seekers to local businesses using state-of-the-art technology and an industry job-matching system.

Apprenticeships are a particularly effective way to put American workers from diverse stages, backgrounds, and walks of life, including our military service members who are transitioning to the civilian workforce, on a pathway to jobs with real career ladders and earning potential. They provide workers important rungs on that ladder of opportunity, and employers get workers trained for the specific jobs they need to fill. Last year, ETA and state apprenticeship staff across the country assisted industry and labor to create over 1,500 new apprenticeship programs. Through registered apprenticeship programs, over 52,000 workers completed an apprenticeship last year. Research suggests that today's apprentice earns an average of over $50,000 upon completion, and will net $300,000 more than their counterparts over a lifetime.

Apprenticeships have been used to great effect by global competitors like Germany, but for too long they have been underappreciated and underutilized as a workforce development strategy in the United States. To illustrate this, consider that America would have needed approximately 6 million apprentices to reach the same per capita workforce levels as Germany, which had 1.8 million apprentices.

Tampa Electric provides utility services to almost 700,000 customers in West Central Florida. Since 1978, they have utilized apprenticeships to make sure their workforce is the best in the business – more prepared, productive, and better trained than their competition. It improves their bottom line and gives their company a competitive advantage. Tampa Electric's apprenticeship program trains workers how to maintain and repair electrical power systems and equipment. Apprentices make around $32/hour while they master the skills of the trade. They earn while they learn, and once the program is complete, they make about $70,000 a year plus the potential for overtime. Some of their apprentices are veterans, others are simply seizing the opportunity to work hard, improve their skills, and make it into the middle class. Tampa Electric gives them that opportunity, and the return on their investment is a well-trained, more productive, and loyal workforce. We need to encourage the establishment of more programs like this, and also expand the use of apprenticeships beyond traditional trades like construction and plumbing, to emerging industries as well.

You do not have to look far to see the impact of apprenticeships and job training. Next time you are walking through the Capitol Rotunda, just look around and you will see the handiwork of Antonio Alford, who led a 20-person restoration crew in 2012. Ten years earlier, Antonio was a student at the Shriver Job Corps Center in Massachusetts when he enrolled in a painting pre-apprenticeship program on-site. Since then he has traveled around America, working on industrial, commercial, and decorative painting projects, making a living doing what he loves.

In Washington State, the Puget Sound Naval Shipyard and Intermediate Maintenance Facility apprenticeship program in Bremerton established a strong college articulation agreement that provides apprentices with the opportunity to earn an associate's degree. It also works closely with local high schools to provide students with a pathway into a successful apprenticeship. To-date, they have over 9,000 graduates.

We are working to increase the use of apprenticeships not just to expand opportunity for workers, but to expand opportunity for businesses, too. More employers deserve the opportunity to train workers in the specific skill sets required for open jobs, and the President and I have called on business leaders, community colleges, Mayors and Governors, and labor leaders to increase the number of innovative apprenticeships in America. Through the Opportunity, Growth, and Security Initiative, the Budget proposes a $2 billion, four-year Apprenticeship Training Fund in new resources for state-based and other collaborative strategies to expand registered apprenticeships, including incentives for employers that increase apprenticeship opportunities, and would work with Congress to use these appropriations to meet a goal of doubling the number of registered apprenticeships in the U.S. over the next five years.
The Department supports positive youth development through a variety of competitive grants aimed at equipping youth with education and workforce training designed to get them into career pathways that lead them into employment, post-secondary education, or registered

apprenticeship. The Department is highlighting Promise Zones in all of our youth-focused initiatives, including grants that target juvenile offenders and opportunity for youth who live in communities that are most in need. In addition, the Department is working closely with our federal partners to implement the recently enacted Performance Partnerships authority, which will allow the Federal Government to establish agreements with up to 10 States, regions, localities, or tribal communities to give them greater flexibility to blend funding across programs in exchange for the agreement to achieve better outcomes for disadvantaged youth.

A key part of helping our youth is working with parents. In my discussions with people all over the country, I continually emphasize that there is a bright future working with your hands. I have heard in communities that the average age of a person in the skilled trades is 59 years old and that we have a whole generation of workers in skilled trades waiting to retire in the next six to seven years, and we need to ensure that we are building a pipeline for the replenishment of the workforce in these areas. However, I talk to some parents who do not want their kids to get into the trades and only want him or her to go to college. I believe if you are earning credentials, and they are stackable credentials, they are a ticket to the middle class.

I know there has been a lot of interest in the Job Corps program over the past couple of years, and I want to update you about the status of this important program. Since I was confirmed as Labor Secretary in July 2013, I have been committed to ensuring that Job Corps continues to improve its financial management and transparency, while continuing to serve students who deserve this crucial second chance. Job Corps and ETA have undertaken a variety of measures to strengthen contract oversight and financial management of the Job Corps program, including a more thorough analysis and monitoring of programmatic and financial data, as well as: establishing mechanisms for detecting risks; strengthening policies, procedures, and internal controls; improving reconciliation between accounting systems; providing additional training for contracting staff and contract administration; and establishing a financial management workgroup, which includes operators who run these centers.

Due to cost-saving measures implemented in Program Year (PY) 2012 and the slower-than-anticipated enrollment of students after the enrollment suspension was lifted in the spring of 2013, expenditures by contractors throughout the program year were, in many cases, less than what was obligated to the contracts, and some of that funding remained available on those contracts at the end of PY 2012 – allowing us to repurpose approximately $40 million of this obligated but unspent funding for use in the current program year. Because we share Congress's commitment to ensuring that this program serves as many students as possible, we will allocate a portion of these funds to increase On-Board Strength (OBS) up to the level supportable by the PY 2014 budget and provide updated technology and equipment for our students. We will continue both our work to enroll more students and our collaboration with Job Corps Center operators to increase OBS. We are also continuing our broader efforts to reform and improve the program so we achieve better educational and employment outcomes for the students we serve.

While we continue to work to improve the program, it is important to remember how Job Corps continues to improve the lives of young people like Antonio, while providing employers like California's Bill Howe Plumbing with a pipeline of skilled workers. This family-owned and operated small business often turns to the San Diego Job Corps center when they need to hire

because, as Vice President Tina Howe told us: "Their students are better prepared for their work, and they come to us a step ahead of other candidates because of the training they have received."

A key part of our work to expand opportunity for all Americans is focusing on helping the brave men and women who serve in America's armed forces, all of whom deserve a hero's welcome and a chance to utilize their unique skills to help rebuild our economy when they return home. "Transition GPS" (Goals, Plans, Success), is an important inter-agency effort designed to prepare separating service members and their spouses to successfully transition from the military to civilian employment.

Through Transition GPS, DOL brings to bear its extensive expertise in employment services to provide a comprehensive, three-day Employment Workshop at U.S. military installations around the world. To date, we have provided training and services to over 2.8 million separating or retiring service members and their spouses. Last year alone, DOL provided close to 6,000 Employment Workshops to nearly 190,000 participants, with many continuing on to the Small Business Administration's Boots to Business program, while the Department's mainline employment and training programs and services have served over 1.4 million veteran participants in PY 2012.

Expanding opportunity and helping veterans secure their place in the middle class requires all of us working together, and transforming the Transition GPS program required unprecedented inter-agency collaboration with our federal partners to completely overhaul the Transition Assistance Program as part of the Transition GPS initiative, and our efforts are already bearing fruit. Participant post-assessment survey results indicate that Transition GPS is enhancing transitioning service members' skills and confidence in their transition planning. DOL, DOD, and VA also continue to work together implementing the single portal – www.ebenefits.va.gov – which houses our collective employment resources (veterans' job bank, military skills translator, career assessment, and resume builder) on one, easy-to-use website.

Sadly, too many veterans still face the even more difficult challenge of homelessness. Homelessness and joblessness often go hand-in-hand. The Department assists these veterans through the Homeless Veterans' Reintegration Program (HVRP), which is one of the only nation-wide federally-funded, competitive grant programs focusing exclusively on employment of homeless veterans. In PY 2012, the Department's Veterans Employment and Training Service (VETS) awarded over $28 million in HVRP funding to 121 grantees. These grants have helped thousands of people like Fawn Mathis, a former infantryman living in Oregon. After serving his country in Iraq and Afghanistan, Fawn had difficulty re-acclimating to life outside of the military. Homeless and unemployed, Fawn sought help through one of the HVRP grantees, Veterans in Progress. They helped him obtain his Department of Public Safety and Standards Training certification and secure a good job at DePaul Security.

The Department is also committed to ensuring female veterans have the services and support they need to succeed in the workforce. To better address the unique challenges they face, DOL created the Women Veteran Program aimed at raising the profile of women veterans, advising on research to help women veterans, and linking veteran service providers to resources like our American Job Centers.

While we continue to serve our veterans, we are also focused on expanding opportunity for Americans with disabilities. The unemployment rate among individuals with disabilities remains regrettably high and the labor force participation rate regrettably low. To allow people with disabilities to live on the economic margins is not only morally objectionable; it is a waste of precious human capital.

Data is critical to developing effective policies that promote the employment of individuals with disabilities. In March 2013, the U.S. Census Bureau released a Disability Employment Tabulation, and in April 2013, DOL's Bureau of Labor Statistics released the first Current Population Survey Disability Supplement, a collaborative project with ODEP. The Disability Supplement provided detailed information on the demographic and employment characteristics of individuals with disabilities.

ODEP is also focused on improved transition outcomes and employment opportunities for youth with disabilities. ODEP co-leads the Federal Partners in Transition Workgroup – together with the Department of Education, the Department of Health and Human Services, and the Social Security Administration – to create a coordinated, Federal strategy to improve employment outcomes for youth with disabilities. In 2013, ODEP hosted a highly successful, national online dialogue, drawing more than 3,000 participants, about the impact of existing Federal regulations and legislation on the successful transition from school to work of youth with disabilities.

ODEP also continues to work closely with the Office of Personnel Management (OPM), the Equal Employment Opportunity Commission (EEOC), and other Federal agencies to provide technical assistance to implement Executive Order 13548, which calls upon the Federal Government to be a model employer of individuals with disabilities and hire an additional 100,000 workers with disabilities by July 2015. I am proud to note that at no point in the past 32 years have individuals with disabilities been hired at a higher percentage than in FY 2012, and more now serve in the Federal service than at any other time during the same period.

During FY 2013, ODEP and ETA continued funding the Disability Employment Initiative by awarding eight more grants to state workforce agencies to ensure that individuals with disabilities have meaningful access to training, education, and employment services through the public workforce system. Currently, 23 state workforce agencies participate in the initiative.

The Department's Wage and Hour Division (WHD) has been diligent in protecting workers' rights on the job and ensuring that employers who break the law do not have an unfair advantage over the vast majority of employers who play by the rules. Since 2009, WHD has returned over $1 billion in wages to the more than 1.2 million workers who had earned them, including over 100,000 who had not been paid the minimum wage for all of the hours they had worked. These wages represent real dollars put back in the pockets of American workers, a return of their rightfully-earned wages that they will directly spend on goods and services, stimulating our economy and helping to create new jobs.

WHD has stepped up enforcement efforts on behalf of at-risk populations – such as low-wage workers, children, migrant or seasonal laborers, workers with limited English language skills,

and workers who are unaware of their rights or are reluctant to file a complaint when subject to labor violations. These workers are most often employed in low-wage industries where labor violations are most prevalent. These industries include janitorial, agriculture, healthcare, hotel and motel, garment, and restaurants. In FY 2013, WHD investigations resulted in more than $83 million in back wages for more than 108,000 workers in these industries. That is more than a 44 percent increase in back wages and more than a 40 percent increase in number of workers since 2008.

WHD's work, however, is about more than the numbers. It is about the people they help every single day. For example, WHD found a veteran living in his car at a job site in Texas. He had been evicted from his apartment for not paying rent on time because he did not receive his pay when his employer missed a payroll. WHD was able to get him his hard earned wages so that he could put a roof over his head. In Arizona, a delivery driver was terminated for taking approved Family and Medical Leave Act (FMLA) leave for which he was eligible. As a result of our intervention, the employee received lost wages and medical expenses, as well as a court order that he be reinstated. In Massachusetts, a restaurant worker was so grateful for our efforts to recover the wages for the long hours he worked that he donated a portion of those back wages to help others in difficult circumstances.

We also continue to work to end the practice of misclassifying employees as independent contractors or other non-employees. Misclassification, in my view, is nothing short of workplace fraud, and it is a practice that has spread from construction to a variety of low-wage industries, even restaurants. While legal business models and legitimate independent contractors play an important part in our economy, it is hard to imagine a restaurant server who is legitimately an independent contractor. In FY 2013, our FLSA investigations resulted in nearly $8.7 million in back wages for over 7,790 workers who were doing the work of employees but who were not treated or classified as employees. In Kentucky, for example, DOL recovered more than $1 million for nearly 200 cable installers. When such employees are misclassified, it can result in them being denied the minimum wage, overtime pay, unemployment insurance, and worker compensation benefits. It also robs the public coffers of payroll taxes and forces employers who play by the rules to compete against those who cut costs by cutting corners.

To ensure that we have the tools necessary to continue all of this important work and help workers get the wages and overtime pay that are their due, the President's FY 2015 Budget calls for an increase of $41 million for the Wage and Hour Division.

Opportunity not only means having a job and being paid fairly for your work; it also means staying safe and returning home each night to your family after a hard day's work. In the greatest nation on earth, no one should have to die for a paycheck. We all agree that good jobs should also be safe jobs. Our worker safety and health agencies – the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) – are on the front lines protecting workers from workplace hazards. Since these agencies were created, we have made significant progress in protecting workers. It is estimated that in 1970 over 14,000 workers were killed on the job, compared with fewer than 4,400 today in a workforce that has doubled. Although this is the lowest number of workplace fatalities ever recorded, 4,400

workplace deaths and more than four million serious injuries and illnesses are still far too many. These fatalities, injuries, and illnesses are preventable, and there is still much work to be done.

Workplace tragedies not only cause grief and loss to families, but they exact an economic cost as well. One recent study estimated that work-related injuries, illnesses, and fatalities cost the nation $250 billion in 2007, including some $67 billion in medical costs. OSHA takes a comprehensive approach to ensure that workers receive the protection that the law requires. But to ensure that employers have the knowledge and resources to protect their employees, OSHA also offers compliance assistance, outreach, and education, focused on the most dangerous workplaces and most vulnerable workers. In FY 2013, OSHA's field offices conducted more than 6,200 outreach activities for workers and employers. OSHA continues to strongly support the free small business consultation program, which provides funding to every state so that small employers can receive a free onsite consultation visit, completely separate from OSHA's enforcement program so employers do not have to worry about being cited for mistakes they have made. This program provided services to over 29,000 small businesses during FY 2013, identifying over 150,000 hazards, and ameliorating those hazards for over four million workers. OSHA also answered almost 207,000 calls to its "1-800" helpline, and OSHA's website received 205 million visits last year.

OSHA also employs targeted inspection activities, enforcement, and appropriate penalties to encourage employers to invest in safety. OSHA conducts almost 40,000 inspections every year to ensure compliance with safe working conditions and rigorous evaluation of these inspections has shown that they are effective: they prevent injuries and do not have an adverse impact on jobs or employer profit.

Still, OSHA is only able to reach a small number of workplaces each year, so workers themselves are OSHA's eyes and ears – identifying problems and filing complaints when other efforts have failed. In addition to protecting workers' health and safety rights under the Occupational Safety and Health Act of 1970, the agency also administers 21 other whistleblower laws that protect employees. In FY 2013, OSHA logged the highest number of whistleblower cases received to date – 2,920 docketed complaints – and we also managed to close the highest number of cases per fiscal year to date – 3,081.

Despite OSHA's efforts, catastrophes still happen. We all remember last year's tragic explosion at a West, Texas, fertilizer business that killed 15 people, including many first responders, and destroyed much of the town. In response, President Obama issued an Executive Order to improve chemical facility safety and security. Along with the Environmental Protection Agency and the Department of Homeland Security, DOL co-chairs this effort to improve information sharing for local responders; increase Federal cooperation; streamline Federal data collection and sharing; modernize rules, regulations, and guidance; and elicit stakeholder input and expertise on chemical facilities, so that another West does not happen.

Not all workplace tragedies, however, generate the media attention of West, Texas, but they are just as tragic to the family and friends of those affected. Last fall, I had the opportunity to meet with Alan White, a 48-year-old man who works in a foundry to provide for his family. Four years ago, after Alan's health began to deteriorate, he went to see a doctor who informed him that

he would die from silicosis because of his exposure to silica in his workplace. "As a new grandfather," Alan said, "I probably will not be able to run with my grandchild through the park as I had hoped." Even now, it is difficult for Alan to walk, or climb a few steps.

Exposure to crystalline silica has long been known to cause silicosis and increase the risk of lung cancer and kidney disease. In fact, some 80 years ago, Labor Secretary Frances Perkins convened a conference about the dangers of silica. Finally last year, I was proud to announce that OSHA issued a proposal to protect millions of workers from exposure to deadly silica dust. The proposal provides unprecedented flexibility to small construction firms and is expected to save nearly 700 lives and prevent 1,600 new cases of silicosis each year when fully effective. It is time for workers, like Alan, not to have to choose between their lives and their livelihood.

MSHA continues to take a number of actions to improve health and safety for the nations' miners, including conducting inspections; strengthening the enforcement of the Section 104(e) Pattern of Violations (POV) provisions aimed at chronic violators; conducting special impact inspections at troubled mines; and enforcing Mine Act provisions that protect miners from safety and health discrimination in the workplace. MSHA has implemented initiatives such as "Rules To Live By", a fatality prevention program, and the "End Black Lung – Act Now!" campaign to reduce the incidence of that disease among the nation's miners. Average respirable dust levels are down over 10 percent since the End Black Lung campaign began in 2009.

MSHA is transforming mine rescue and emergency response; and, as of December 31, 2013, the Agency, on a timely basis, addressed the 100 recommendations of the internal review of its actions at the Upper Big Branch mine in West Virginia. MSHA worked for nearly two years on these corrective actions, which include over 40 policy changes and more than 20 training sessions for its personnel. This process has dramatically changed the agency and greatly contributed to mine safety in this country. In addition, MSHA announced that it will publish a Request for Information that will focus on important mine safety issues in underground mines, such as rock dusting and ventilation.

MSHA also continually provides training for MSHA personnel, miners, and the mining industry as a whole. And coupled with similar industry-sponsored efforts, this work is improving mine safety and changing the mining industry's culture of safety for the better. MSHA's POV actions have resulted in a significant reduction in mines receiving additional screening as chronic violators – down 83 percent from 2010 when the POV screening criteria was revised to focus on mines with the most serious compliance issues. Moreover, mines that were previously identified as potential POV mines (under the old rule), and those mines undergoing impact inspections, have, on average, made improvements in compliance and reduced injury rates. An MSHA review of POV mines shows that as of December 31, 2013, these mines' total violation rates are down 37 percent; significant and substantial (S&S) violation rates are down 59 percent; unwarrantable failure orders are down 78 percent; and lost time injury rates are down 44 percent. A similar review of mines receiving impact inspections between September 2010 and September 2013 that have had at least one follow-up inspection shows that violations per inspector hour are down 19 percent; S&S violations are down 26 percent; unwarrantable failures are down 52 percent; and lost injury rates are down 13 percent.

Over the past two years, MSHA and the Department's Office of the Solicitor have undertaken a historic effort to protect and promote the voice of America's miners. Miners know best when their work environment is safe or when a mine is a threat to the health and safety of their crew. During this time, the Labor Department has pursued historic numbers of cases, including actions for temporary reinstatement, on behalf of miners who have faced retaliation for making hazardous condition complaints and engaging in other protected activity. In 2013, 45 section 105(c) cases were filed, the most ever in a year, as well as 26 actions for temporary reinstatement (a number exceeded only by the 47 actions initiated in 2012).

MSHA and the Solicitor's Office, with the support of additional funding from Congress, have successfully reduced the backlog of contested citations and orders at the Federal Mine Safety and Health Review Commission. The number of contested orders and citations pending at the Commission has been reduced from a high of 89,000 at the end of 2010 to 31,000 as of December 31, 2013. MSHA has improved the consistency of its citations, and this action, along with the implementation of the examination rule in underground coal mines and pre-contest conferencing, have resulted in fewer contested violations and less litigation.

Working with mining industry stakeholders on a number of issues, MSHA has developed guidance and policies on the most frequent and serious hazards for miners, including guarding, fall protection, and hazard communication standards at metal/nonmetal mines. All of these measures have resulted in improvements in compliance, and the total violations cited by MSHA have dropped each year from 2010 through 2013. From 2010 to 2012, violations dropped 18 percent. Preliminary numbers indicate that from 2012 to 2013, violations dropped another 15 percent.

By far, the most important measure of progress is how many miners return home at the end of their shift free of injury or illness. MSHA has deployed state-of-the-art mine rescue communication, atmospheric monitoring, and mapping equipment to speed up mine rescue efforts and has supported the establishment of a national mine rescue structure to support and provide guidance on mine rescue. The year 2011 became the safest year in mining history, with the lowest fatality and injury rates ever recorded, and that record was exceeded in 2012 as both fatality and injury rates were reduced even further. Fiscal Year 2013 set a historic fiscal year record with the lowest fatality and injury rates and the fewest mining deaths ever recorded in a fiscal year at 33. Unfortunately, the fourth quarter of Calendar Year 2013 did not follow that trend, with 15 fatalities in that period alone, making it clear that despite our progress, we must do more to protect our nation's miners.

Protecting and expanding opportunity is not just about safety; it also means securing the hard-earned incomes and benefits of American workers and retirees. The Department's Employee Benefits Security Administration (EBSA) is continuing this important work to protect the security of retirement and health benefits for America's workers, retirees, and their families through a combination of compliance assistance, regulations, and enforcement.

EBSA continues its efforts to improve the overall transparency of 401(k) and other retirement plan fees so that workers' hard-earned savings are not unwittingly eroded by undisclosed fees. In 2012, EBSA finalized a rule enhancing disclosures that plan service providers must give to

employers and other fiduciaries responsible for operating retirement plans about the often-complex fee arrangements used to pay plan service providers. Earlier this month, EBSA issued a proposed rule that would provide a template for service providers to summarize their fees. Fee transparency leads to lower fees, which is good for business and consumers alike. We expect this work will be especially useful to small businesses as they review their 401(k) plans and will help them understand the relative costs of the investment choices they offer their employees. In addition, under a related fee transparency rule for workers that manage their own 401(k)-type plan accounts, every year plans must give each covered worker a simple and comprehensible apples-to-apples comparative chart of the retirement investment options designated in their plan, including information on investment fees and expenses.

As a logical follow-up to the fee disclosure initiatives, EBSA began an initiative aimed at making sure that America's workers in 401(k)-type plans understand whether their current and projected savings will translate into a secure retirement. Because workers may have difficulty envisioning the lifetime monthly income that can be generated from their 401(k) or similar accounts, EBSA believes that the regular account statements that workers are required to receive should not only show them their current account balances but also translate the account balances into anticipated monthly payments for life.

In addition to these critical initiatives, EBSA has had tremendous success in protecting employee benefits through both civil and criminal enforcement actions. EBSA's efforts, which include the Voluntary Compliance Correction Program, the Abandoned Plan Program, and the participant assistance efforts, achieved total monetary results in FY 2013 of nearly $1.7 billion. EBSA also closed 320 criminal investigations, which, combined with its participation in criminal investigations with other law enforcement agencies, led to the indictment of more than 88 people.

EBSA's investigation of Catarina Young, a partial owner of the now-defunct Elite Benefits Corp. (Elite), led to a jury conviction involving her theft of insurance premiums from participants of employer-sponsored health plans. Elite administered insurance plans on behalf of third parties, including the Multi-Skilled Employees & Employer Welfare Trust Fund (Fund), an organization consisting of several union employers and hundreds of employees. Young, as fiduciary of the Fund, deposited 86 checks and 16 wire transfers totaling $462,341 belonging to the Fund into her personal bank accounts. The stolen proceeds were supposed to be used to purchase health insurance coverage and prescription coverage from Horizon Blue Cross Blue Shield of New Jersey and Benecard, respectively. By stealing this money, Young's actions resulted in the cancellation of a health insurance plan that insured more than 1,000 working people and their families. Young was sentenced to seven years in state prison for her actions.

In 2013, our Benefits Advisors, who provide assistance, education, and outreach for workers, retirees, and their employers, closed more than 236,000 inquiries, helping informally resolve the complaints of 180,120 individuals and recovering over $281 million on their behalf through informal dispute resolution. We also conducted 1,870 outreach activities reaching nearly 62,000 individuals.

The Department's worker protection efforts also extend to Federal contractors. In Calendar Year 2013, the Department's Office of Federal Contract Compliance Programs (OFCCP) negotiated more than $9.7 million in back wages and over 1,200 potential job opportunities for the benefit of more than 11,000 workers affected by discrimination in the workplace. In keeping with President Obama's national call to action to close the pay gap, about one-third of all discrimination cases resolved by OFCCP now address issues of pay discrimination – compared to only a handful just a few years ago. Just last year, OFCCP resolved 21 cases of pay discrimination and recovered more than $1.2 million in back wages and salary adjustments for nearly 1,000 workers affected by unfair pay practices. Those might just be numbers to some, but they represent real people – like the 65 women at a commercial laundry in California who were assigned lower-paying tasks, or the 78 Hispanic workers at a Massachusetts manufacturing facility who were paid less than other similarly qualified workers while doing the same jobs. OFCCP not only obtained more than half a million dollars for these workers, but also negotiated key reforms to make sure that the discrimination they experienced does not happen again.

Lasting change in this area will only come when workers know their rights and employers understand their responsibilities. Last year, OFCCP staff conducted 563 compliance assistance events designed to provide Federal contractors and their representatives with high-quality and completely free trainings on how to comply with the laws and regulations enforced by the agency. At the same time, OFCCP continued its focus on helping workers become their best advocates by also hosting 608 community engagement and worker education events that were attended by more than 46,000 individuals. Indeed, 86 percent of these events targeted those most at risk of experiencing workplace discrimination, including individuals with disabilities, veterans, and women and minorities working in the construction industry.

OFCCP's efforts toward strengthening enforcement, clarifying regulations, providing technical assistance, and expanding outreach have been coupled with important measures to improve productivity within the agency. Since 2010, we have conducted more than 103 trainings for OFCCP staff to improve the consistency of enforcement across the country. We have reduced the rate of aged cases by more than 30 percent over the past three years and improved the timeliness of individual complaint investigations by 12 percent since last year. And since President Obama took office, we have increased by 50 percent the amount of back pay per worker recovered for those who have been subjected to discrimination.

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President Obama has said that he wants this to be a year of action and optimism with a laser focus on expanding and protecting opportunity for all. We may not always agree on how to get there, but I know we can all agree that what defines our nation is the belief that no matter where you start and no matter where you come from, you should have a chance to succeed in America through hard work, resilience, and determination.

The principle of opportunity for all captures many different issues. But so many of them – skills and training, fair wages, retirement security, as well as workers' safety and others – fall directly under the purview of the U.S. Department of Labor. That is why I am so eager to tackle these

challenges every single day. As it has been for all 101 years of our existence, I believe the work of the Labor Department is the work of America.

Thank you again for this invitation to join you today. I look forward to your questions this morning, and to working with you in the months and years ahead.

Chairman KLINE. Thank you, Mr. Secretary. That was an excellent summation. And if we had you on the clock you would have made it under the time limit anyway.

Secretary Perez. Well, thank you.

Chairman KLINE. So now, my colleagues, we are on the clock.

Mr. Secretary, you mentioned the Vice President is going around apparently conducting a study of the nation's workforce development programs. As you probably know, since 2011 the Government Accountability Office has issued five reports highlighting challenges with the federal workforce investment system, and in fact, the GAO has issued 17 reports on the Workforce Investment Act since the law expired in 2003.

I am having some difficulty understanding why we need an 18th study. I would hope that the administration, that your department, would work with us in Congress to put forth a comprehensive plan to reauthorize the bill. We are working on that in Congress and we would like your engagement.

In your testimony you rightly discuss the need for American workers and retirees to have access to secure savings and retirement options. However, as I am sure you know, there has been a great deal of discussion and bipartisan concern, frankly, about the department's efforts towards redefining "fiduciary."

The previous, now-withdrawn, proposal would have increased costs and reduced access to financial education investment options. The fall 2013 regulatory agenda states that the new proposal of this rule will come out this summer.

Can you assure us that the department's revised proposal will address the bipartisan concerns that have been raised here in Congress? We would like to keep that engagement going.

Secretary Perez. I have had a number of discussions, Mr. Chairman, with people on this body as well as folks in the Senate, and I can assure you that the outreach that we have conducted and will continue to conduct will be robust, that we will continue to listen. I am a big believer in listening and learning.

And you look at the 503 regulation that was promulgated, and in the aftermath of that regulation Governor Ridge, who was very involved, wrote an op ed in the Wall Street Journal referring to that process as a model in which we were inclusive. We came up with solutions that were practical, addressed issues.

That is how I have always tried to comport myself and that is why I have met with a number of you and will continue to do so.

Chairman KLINE. Well, and we do appreciate that meeting, your willingness to come over here and meet with us. We want to continue that kind of relationship.

When we have an issue like this where there has been bipartisan concern raised we really would like to make sure that we are staying in contact here because there are great concerns throughout the economy, and particularly in the industry, about this new definition of "fiduciary" and the impact that it might have.

Speaking of rulemaking, your testimony highlights the accomplishments of, and future plans for a number of Department of Labor agencies, but one agency that is missing from your testimony is the Office of Labor Management Standards. On June 21, 2011 the department proposed a significant change to the longstanding,

court-approved definition of "advice" under the Labor and Management Reporting Disclosure Act. Under the proposal the advice exception would be limited to oral and written recommendations, so we are hearing a great deal of concern, again, Mr. Secretary, about the impact this would have on employers and their relationship with attorneys as they move forward to address their concerns.

This controversial persuader rule would be issued in March, as previously indicted in the fall 2013 Unified Agenda. The department did not provide a new date for issuance of a final rule but stated that they would be moving forward with it in the future, and I don't have the quote here in front of me.

Again, there is a great deal of concern here and we would like to stay engaged with the department as you look at that rulemaking.

Secretary Perez. And I will continue to stay engaged. I have certainly heard a number of concerns that were raised in the course of the outreach I have done to a wide array of stakeholders.

As you know, the rule is currently under review so there are limits to what I can say, but I can certainly assure you that we have been listening intently and I want to make sure—and I made sure when I came in that I had an appropriate handle and a full handle on all the issues and all the concerns that were raised, and I continue to assure you that I will do that.

Chairman KLINE. Thank you, Mr. Secretary.

Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman.

Mr. Secretary, thank you.

Mr. Secretary, as we contemplate the Congress voting to increase the minimum wage in this session of Congress, it appears when you review the literature that the old traditional argument that an increase to the minimum wage meant fewer jobs has been stood on its head and study after study across the country, in localities, across states, in competing jurisdictions where the wages are different, that, in fact, that the minimum wage appears to not only have employees retain their jobs longer, but employers saying that they are getting the better quality of applicant for that job and they are staying longer at the higher wage.

This was reinforced by Costco, the big box wholesaler, out of Seattle—national wholesaler—that said this was their purpose in supporting an increase in the minimum wage, that they thought they were getting better, longer-term employees. And the Gap, the national retailer, just announced that it is going to 10 an hour for the very same reasons and they expect to recover whatever costs are associated with retention and lower training.

This is also being proven out in various communities and counties across the country, where mayors and county governments and others and states have made a decision that they cannot have a vibrant economy if low-income workers are continuing to get poorer and poorer and poorer as they work longer.

And I just wonder what your review of the literature says to your department on this. You announced the—publishing of a study this morning on the impact on women. But it seems that there has been a sea change both in local experience and in the empirical studies of the impact of the increase in the minimum wage.

Secretary Perez. Congressman Miller, I completely agree with you that there is an overwhelming body of evidence demonstrating that when you raise the minimum wage it doesn't result in job loss. It started with Alan Krueger looking at a jurisdiction in New Jersey, and then across the river in Pennsylvania, and when they demonstrated that when one jurisdiction raised the minimum wage it didn't have an impact on jobs, people asked, "Well, that is just one pair of jurisdictions." So economists studied literally thousands of jurisdictions that had the same situation across this country and came to the same conclusion.

And then I would also bring your attention to the state of Washington. Washington has the highest minimum wage in the United States and has so for some time, and you look at the data there on job growth and job growth has been robust. And I would note parenthetically that Washington does not have a tip credit, so if you are a waitress or a waiter you are making the same minimum wage as others.

And I have been to Seattle as recently as 3 weeks ago. The restaurant industry continues to thrive. So there is a robust evidence base demonstrating that this is good for workers; it is good for employers because it puts money in people's pockets and they spend it.

That is what Henry Ford did 100 years ago when he doubled the wages for people on the assembly line. He did it because he had 360 percent attrition, but he also did it because he wanted to show that people who make my products ought to be able to purchase my products, and when I put money in people's pockets they spend it in our communities.

Mr. MILLER. Thank you. You mentioned the tip credit. The tip credit, I think, today—what tipped employees get paid as part of the minimum wage is now down to 29 percent of the minimum wage. It is the smallest share since 1966.

What you have are some of these people in the restaurant industry and elsewhere arguing that their business plan—that a 1966 wage is critical to the maintenance of their business plan. I don't know any other sector in the economy that would make that argument today that I am going to have to pay you at 1966 wages in order for me to be able to survive as a business.

And the impact on women, overwhelmingly—or part of that tipped workforce—is really dramatic in terms of the loss of earning power for their work—their schedule.

Secretary Perez. Tipped workers have been taking it on the chin in all too many states. And you are correct, they are disproportionately women. They are much more likely to be living in poverty. They are much more likely to be relying on Food Stamps.

And again, you look at the experience of places like Washington State. Your state of California does not have a tip credit. And I have hardly seen a diminution in the restaurant industry because the playing field is level for everybody.

And I have asked restaurateurs in those states, "How do you deal with this?" And they say it is a level playing field. And when people have money they actually start going to restaurants again.

And so it has been a consumption-deprived recovery. That is the theme I hear from employer after employer.

And when you put money in people's pockets, including tipped workers, they are going to spend it. They are not going to bank it in some, you know, offshore account.

Mr. MILLER. Thank you.

Chairman KLINE. Gentleman's time has expired.

Mr. Petri?

Mr. PETRI. Thank you very much, Mr. Chairman.

I listened to your testimony with interest. I, although years ago, I took economics 1, and I learned I didn't understand or learn economics properly. I was taught that when prices change in a marketplace it affects supply and demand, and I always thought that applied to the price of labor as well as anything else.

But leaving that aside, the President recently directed you to carry out a review of federal policies governing overtime pay under the Fair Labor Standards Act. Could you provide us with any additional insights as to which areas you intend to review or problems you are seeking to correct?

Secretary Perez. Sure. Overtime stands for the simple proposition, as I mentioned in my testimony, that if you work extra you should be paid extra. In 1975 there was a threshold set for people who were working more than 40 hours a week; it was 250 a week, so white-collar workers were entitled to an exemption. And if you actually adjust that for inflation that would be $970.

In 2004 there was regulation put in place by the Bush Administration that did two things. It established the threshold at $455 a week, and then it established a test to determine whether you were an exempt employee. And the upshot of the test—and there was a case out of the 4th Circuit that was litigated here—is you can work one percent of your time in a management function and 99 percent of your time stocking shelves and you will be an exempted employee under the current regulation.

And so there are two issues that we are working on in this regulation, and that is, number one: what should the threshold be? It is currently $455; it was $250 in 1975.

And secondly: how does the test work and how, if at all, should the test be adjusted? And what we are doing here is what we are doing in every regulatory context, is that we are reaching out to a wide array of stakeholders. I spoke to some business leaders last week; I am meeting with others actually later today and tomorrow to get their insights. We are meeting with workers.

We are casting a wide net so that we can understand the impact of this, and I look forward to involving this committee and getting insights from you and any constituents that want to make sure that their voice is heard.

Chairman KLINE. Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman.

Secretary Perez. Morning, Congressman.

Mr. TIERNEY. Morning. How are you?

Secretary Perez. Very well.

Mr. TIERNEY. I want to read you just a couple of statements. Our office is getting inundated from people that really are seeking an extension of the unemployment insurance, so just a couple of samples, one from a young woman from Lynn, Massachusetts.

"I need to express my wish to have the unemployment benefits extended as soon as possible. I have worked since I was 16 years old until I was laid off from a major bank last May. Since then I have searched for work everywhere. I go on every Web site every day. I contact friends. I use the local career center and fulfill all the requirements set by the DUA.

"I have two children, a mortgage, a car payments, and utilities to pay. I am sure you can imagine how hard it is to say 'no' to every extra that the children ask for, but the worst of it has been that recently when they keep asking why I haven't gone grocery shopping yet, since I normally go every Tuesday while they are in school, I have made every excuse. I am really starting to get scared.

"It is humiliating to live like this, especially when I have never had to ask for financial help from anyone. I am so scared that this argument with Congress will go on forever. I am begging for your help."

Another one comes from a constituent in Saugus, Massachusetts: "I am one of the millions of Americans that find myself for the first time in my life in the ranks of the unemployed. My benefits were extended only the last two weeks of 2013 but now I have no money coming in. I have slowly drained my savings over the last seven months to the point where I have nothing to fall back on.

"The argument that extending benefits removes incentive to find a job is ludicrous. I am 55 years old; I have never had to collect unemployment in my career and want and need to work. Jobs at my level are competitive and scarce.

"I have worked hard and paid taxes all my life and need this money to help me make ends meet. What little money I receive goes right back into the economy to pay my bills."

And then one last once from Burlington, Massachusetts: "I believe you have already been on my side of this issue but I implore you to exercise whatever influence you might have on the obstructionists seem to want to further hurt those of us who are already hurting.

"My wife's unemployment was cut off at Christmas time; my income alone can't sustain mortgage payments in a timely fashion. My credit rating has taken a beating while options I have are not very good keeping my home over the last 20 years. Those checks were keeping our heads above water.

"I will be 65 in three months. My house is essentially my retirement money and if I am forced to sell I will have to do so at less than it is valued in order to pay my way out of mounting debts. My life is consumed by worry. My health is so-so and I have to continue working through the best I can, but I am losing ground fast.

"There are well over a million of us scrambling to rearrange chairs on the deck of the Titanic. How can this be happening in America? I have worked my entire life and played by the rules. Are people who find themselves in the same position now considered to be a disposable commodity? I am worried sick."

So this assertion by at least one Republican that was quoted recently in a news article that extending unemployment insurance will encourage unemployment—what would you say to that?

Secretary Perez. I couldn't disagree more, sir. I have spent so much time with people like your constituents and their stories compel me. And the things I hear most frequently is, "I am spending full-time working—looking for work."

A cancer survivor from New Jersey told me, "I had a chemo drip on me seven or eight years ago. Fighting cancer was far easier than fighting long-term unemployment."

I have met Wellesley grads who are long-term unemployed and I have met people with a ninth-grade education who are long-term unemployed. And they are all working their tails off to find a job.

And we are trying to work with them. I was in New Hampshire yesterday with the Vice President and we met a person who had an engineering degree—40 years an engineer and he couldn't find a job. And through our on-the-job training partnership, where we subsidize the wage for a certain period of time, he is back on his feet. The employer has hired others through that initiative, which has proven very successful.

But there are millions of others who are left behind, and what they tell me the most is that the thing that bothers them the most to a person is when people suggest they are sitting at home doing nothing. That is the thing that offends them the most.

Mr. TIERNEY. What do you have to say to the comment made by one of the people that I quoted that whatever they get from unemployment benefits goes right back into the economy—the have bills to pay?

Secretary Perez. Well, it is exactly true. People who are minimum-wage workers are choosing between a gallon of milk and a gallon of gas. People who are long-term unemployed are choosing between food and medicine.

Congressman Courtney and I have been in touch with a woman named Katherine Hackett. She sat in her house with her hat and coat on because she had to keep it at 57 degrees. I mean, this is what people are doing.

And we have a long, proud, bipartisan history of helping folks in this situation, and I hope we can continue that, at the same time looking at other investments so that we will get them back on their feet. And that is what we are doing.

I said, this is what keeps me up at night more than any issue that I deal with, and I call people that I meet. I call them three weeks later because what they need is hope and what they need is a helping hand right now, and we need to give it to them.

Mr. TIERNEY. Thank you, Mr. Secretary.

Chairman KLINE. Gentleman's time has expired.

Mr. Walberg?

Mr. WALBERG. Thank you, Mr. Chairman.

And thank you—

Secretary Perez. Good to see you again, sir.

Mr. WALBERG. Good to see you, and I definitely want to express appreciation for your openness to meet, whether it is in my office or on a phone call or I am sitting in my pickup truck and you are in your office, I—

Secretary Perez. Please don't call me from your Harley, though.

Mr. WALBERG. Well, if I, do it will be by the side of the road and your wife will be happy coming from Milwaukee.

Secretary Perez. Yes. Thank you for stimulating the economy of my wife's home town, by the way.

Mr. WALBERG. Well, I appreciate that. I think the openness, whether we agree or disagree, whether we have some efforts to work for compromise, it is always good to communicate. So thank you very much.

Secretary Perez. Thank you.

Mr. WALBERG. Certainly appreciate that.

On the crystalline silica regulation, in your testimony you mentioned that OSHA is working on regulation regarding exposure to crystalline silica. I have, as you might guess, have heard from a number of stakeholders concerning the proposed regulation.

A major flaw that they bring up to me in this regulatory proposal is that OSHA acknowledges laboratories analyzing workplace air samples can't accurately measure the proposed lower limit that is under consideration. OSHA will allow the laboratories two years to work on the problem. However, employers are being told that they will not be given the same grace period.

And so I guess my question would say, Mr. Secretary, how can regulation propose to regulate what cannot be accurately measured?

Secretary Perez. Well, Congressman Walberg, what I would say at the outset is exposure to silica can have devastating effects on people.

Mr. WALBERG. Certainly.

Secretary Perez. And Secretary Frances Perkins, actually, in 1937, hosted an event in which the issue of exposure to silica was discussed. And so for decades, literally, we have known the impact of silica.

And what we are doing in this proposed rule is taking the science. We have worked with NIOSH; we have worked with other key stakeholders; and we have put it out there in a proposed rule where we have cast a wide net.

As we speak, I believe hearings are still underway—I know they were underway last week; I can't say for certain whether they are underway today. And at the end of that very inclusive process we are going to gather all this information and address concerns that are raised and come up with a final rule that I think addresses the balance that needs to be addressed.

And I spoke to a guy named Alan White from Buffalo, New York who is my age and he works in a foundry and he is dying because he has silicosis. And he, you know, said to me, "You know, I feel like this issue has been, for me, studied quite literally to death." And so—

Mr. WALBERG. It is an important issue, but I guess concern using 11-year-old data on this issue, and Mr. White is concerned. I worked in a steel mill myself; there are concerns there for me.

But we would hope that the information, the statistics, the data would be more up-to-date than 11 years old. We also have some concern that stakeholders estimate the silica rule will cost well over $5 billion to implement. OSHA estimate is 637 million annually. That is quite a disparity.

Appreciate you trying to explain those dramatic cost differences, but we also know that silicosis, the incidence has gone down except

in certain limited and important areas. But ultimately, overall it has gone down.

Secretary Perez. Well, I can assure you that this regulatory process is going to be hearing your views and a wide array of views. I was looking at my notes here and our hearings are continuing through April the 4th. I have been actively engaged in discussions internally. I have a lot of faith in the science and in the not just, you know, what we are doing, but what we are reaching out so that we have the state-of-the-art, current understanding of silicosis, its impact, its costs, its benefits of rulemaking, and that is what we will do.

As I said, we are going to do the same thing we did in the 503 context, which is to listen, learn, craft a rule that is appropriate and balanced and helps people stay safe without having other ill consequences.

Mr. WALBERG. I would hope that there would be a willingness to open up to expand the amount of testimony questioning time in this process, specifically dealing with this area, from the stakeholders. I know that one suggestion has been to use water on sand. Having worked in a steel mill and having seen our locker room blown up as a result of water coming in contact with molten metal, I think we ought to have stakeholders with significant time to make sure that those questions are answered.

Secretary Perez. Thank you. And we have extended, as you know, the time period, I think, twice—it may have been once; I think it was twice—and that is because we want to—

Mr. WALBERG. —appreciate that—

Secretary Perez. —we want to make sure that we get it right.

Mr. WALBERG. Thank you.

Chairman KLINE. The gentleman's time has expired.

Mr. Holt?

Mr. HOLT. Thank you, Mr. Chairman.

Thank you, Mr. Secretary.

Secretary Perez. Morning. Thank you for your service.

Mr. HOLT. You referred to Secretary Perkins. You are part of a long line of really distinguished people who have looked after the welfare of Americans' families, and I am pleased to see the way that you are undertaking this—

Secretary Perez. Thank you.

Mr. HOLT. —with a personal concern for that welfare.

Frances Perkins, yes, talked about silica. This is something that we still have to work on, we still have to improve. My father, back in the 1930s, was involved in bringing to light the horrors of workers exposed to silica, and we have not done enough yet. We shouldn't be cutting corners.

I look here on the wall at Mary Norton, a New Jerseyan, who in this committee, as chair, shepherded the National Labor Relations Act through Congress, setting the principle that wages and hours regulations are a wise thing to do for this country. And you mentioned my constituent and good friend Alan Krueger, who has demonstrated economically the value of the minimum wage to our overall economy.

And, you know, since I am talking New Jersey I mustn't fail to mention Pete Williams, who was the father of OSHA, the Migrant Labor Act, and all of these great protections for working families.

But I wanted to ask two questions. The minimum wage: Minimum wage has lost considerable buying power. It is not indexed to inflation, as we now in New Jersey recently have done through constitutional amendment. It is till way below its peak of 40 years ago in buying power. And we need to see that all workers, including workers depending on tips, women, workers supporting families on a minimum wage, workers between jobs—all these workers should have means to support their family, have, of course, good benefits, and an expectation of dignity in their non-wage-earning years. And that is my second question.

So I wanted to ask two specific questions. Second question has to do with those non-wage-earning years.

First of all, I wanted to give you a moment to specifically address the CBO claim that some of our colleagues are seizing on that raising the minimum wage, although overall very beneficial, might cause some job loss.

Secretary Perez. Well, as I mentioned—

Mr. HOLT. CBO has said that.

And then my second question has to do with those non-wage-earning years. The chairman raised this point. I would like to know more specifically how you can be sure—how you intend to be sure that setting standards on investment advice doesn't result in no advice and doesn't discourage saving and preparation for non-wage-earning years.

Secretary Perez. I will attempt to answer those two questions in short order.

The CBO report acknowledged that there is a potential range of potential job loss that could result from a raise in the minimum wage, and one range was zero. Mr. Elmendorf also acknowledged that they didn't do any independent studies to figure out what, in fact, it was.

And as I outlined earlier, there have been a bevy of studies that have actually looked, in fact, at what happens when you have these match paired tests. And in fact, raising the minimum wage does not result in job loss because employers have workers who are more efficient, who are—who don't leave as fast, and as a result, it has a good impact.

So—

Mr. HOLT. Well, I am glad you have addressed that so clearly, because the other side has been using this, I think, improperly. Thank you.

Secretary Perez. And as to your second question, very quickly, we are looking very carefully at the best way to address the issue of conflicted advice in the retirement market. Two of the most important choices that people make are the choice to buy a home and the choice now of how to invest their retirement. In both cases we have a shared interest in making sure that they are making informed choices. That is our goal in this process and we are going to make sure that we listen to everybody as we move forward.

Mr. HOLT. Thank you very much.

Chairman KLINE. Thank the gentleman.

Dr. Foxx, you are recognized.

Ms. FOXX. Thank you, Mr. Chairman, and—

Secretary Perez. Good to see you again.

Ms. FOXX. Good to see you too, Mr. Secretary. I appreciate your coming by to see me recently and the great talk we had—

Secretary Perez. I enjoyed our visit and I hope your brother is doing well.

Ms. FOXX. Yes, he is.

Secretary Perez. Good.

Ms. FOXX. Thank you very much. You are very good at—you do your homework and I give you a lot of credit for that.

You have told a lot of emotional stories here about individuals, but I think one of the things that we have all heard over the years is you give a woman a fish and you feed her for a day, teach her to fish and you feed her for a lifetime. And when you came by to see me we talked about the fact that we have passed a bill out of the House called the SKILLS Act, which is now over in the Senate, and when we passed the SKILLS Act we quoted President Obama often when he said in the 2012 State of the Union Address that he wanted to cut through the maze of confusing job training programs and create one program for workers to find the help that they need.

We all know that there are about 12 million people in this country unemployed and the long-term unemployment situation is particularly dire in the country. We also know that we have about four million jobs out there that can't be filled because people do not have the skills to fill them.

And yet, in the fiscal year 2015 budget you are proposing to create six new workforce development programs that total more than $10 billion. You level fund the workforce investment state grant programs, which are the primary funding streams dedicated to helping unemployed Americans find and retain full-time work.

I am wondering what has changed in the President's mind since 2012 when he said we needed to consolidate programs and have one program for people to come get the help that they need. That is his quote.

Why are you creating new overlapping programs instead of modernizing the current workforce investment system and working with us in the House and encouraging the Senate to act on the SKILLS Act so that we can do what the President said he wanted to do? Why did he change his mind?

Secretary Perez. The President didn't change his mind, and I think we have a shared interest, Congresswoman, in making sure that we give people the skills that they need to succeed and the ability to punch their ticket either for the first time or again to the middle class, and making sure we give employers the access to the skilled workforce that they need to grow their business. And if you look at what the President's proposals are doing, you look at what the Vice President is doing, we are, among other things, spurring innovation, taking what is working and taking it to scale, and trying to fix what is not working.

And let me give you a couple examples. You cited, for instance—

Ms. FOXX. We really would like those examples—

Secretary Perez. Sure. I will give you a—

Ms. FOXX. —exactly what you are doing—

Secretary Perez. Sure.

So for instance, you know, one of the programs you mentioned as—which I thought was actually exactly consistent with what you were getting at—is the President is proposing to combine the Trade Adjustment Act and the displaced worker provision of WIA into one program, and so that is actually taking two and consolidating them into one.

Ms. FOXX. —we have 49 different programs.

Secretary Perez. Well, it is interesting. Let's talk about the veterans programs, for instance, because these are not programs as much as they are tools. If you are a veteran and you walk into a one-stop center you don't know about the various programs. You walk in and you say, "I am a vet and I want a job."

There are four or five funding streams. If you are a veteran with a disability we will take that funding stream and help you. If you are a veteran and you don't have a disability, well then we have another group of folks who can help you. Those aren't programs; those are resources.

And you look at the GAO report, those are four or five of what some people refer to as programs. What GAO said was the thing that we notice is that these funding streams are actually helpful to address the unique needs of certain job-seekers—people with disabilities. We have programs that are targeted at them. People who are ex-offenders.

We have to take the people where they come. And that is why Congress, in its wisdom over the years—we didn't establish these programs; Congress did. And they did that because different people have different needs.

And what we are trying to do, through the apprenticeship program, which is one of the six programs that you cite—we already have investment in apprenticeship. We think it works. We are trying to take it to scale. Just as if you had a weapon system that works you would make more of it because it works.

I remember our conversation very well and I think we actually have a lot of common ground on the issue of data, on the issue of performance measurement, and I am really looking forward to continuing that dialogue. And we want to work with you to craft a bipartisan solution because in state and local government when I worked on these issues they were—it wasn't Rs and Ds; it was business leaders, political leaders, faith leaders, and others coming together to help people get jobs and help businesses grow.

Ms. FOXX. As I told you when you left my office, you know where I am.

Chairman KLINE. The gentlelady's time has expired.

Secretary Perez. I look forward to it.

Chairman KLINE. Mr. Grijalva?

Mr. GRIJALVA. Thank you, Mr. Secretary, and—

Secretary Perez. Good to see you again.

Mr. GRIJALVA. —Secretary.

The question I have, you know, you hear the argument that minimum-wage jobs are really intended for first-time employees, primarily teenagers, as part of—and that is one of the reasons is, is because they will be out of that work environment quickly. You know, how many—my question is, if you look at that—the min-

imum-wage workforce, could—is there—do you have any information to break down that claim about—

Secretary Perez. Sure. Eighty-eight percent of minimum-wage workers are ages 20 or older, and the recent CBO report again confirmed that 12 percent of minimum-wage workers are teenagers. The average age of a minimum-wage worker is 35 years old.

Minimum-wage workers are disproportionately women. Twenty percent of children have at least one parent who would receive a raise if the minimum wage were increased. The data goes on.

Two million people would be lifted out of poverty. Twelve million people in poverty would see their incomes rise with this.

And so I have met so many people in the course of my tenure in this position who are working a full-time job, trying to raise their kids, and making the choice, as the person in Connecticut said to me, between a gallon of milk and a gallon of gas. The person working at Newark Airport who was making minimum wage until recently—got his first raise in nine years, and, "I can't give my kid a birthday present because I got no money to buy him one." And it was sad to tell.

And this was apparent. And that is the face of minimum-wage workers across this country.

Mr. GRIJALVA. And the effect, if I may comment, Mr. Secretary, the effect on the child and the poverty within children based on the fact that we are at this stagnant level of income for what, a quarter of minimum-wage workers that happen to have dependent children.

Secretary Perez. It has a huge impact on children. Every child deserves a fair start, a healthy start, and there is legions of data that demonstrate that by the age of three all too many people living in poor families, they have exposure to literally millions less words that are spoken in their household, and so they are already behind the eight-ball when they start preschool.

If you are not getting through—if you are not reading at grade level by the third grade a wide body of research that demonstrates that you are going to have trouble later in life. You look at the adult studies from the OEDC, you know, we are—on numeracy and literacy, the good news is that we are ahead of Italy and Spain; the bad news is that there are many countries that are ahead of us.

And when you don't have a head start you are always trying to catch up, and—and that is not good for children. That is not good for children when they grow up and that is not good for America.

Mr. GRIJALVA. The initiatives that have been talked about, the minimum wage initiative of the President and the administration and Labor, the availability of overtime for salaried employees would add to consumer demand, would rev up hiring in various business and investment. And also, all this whole part is premised on all the studies that—recent studies that talk about the significant income inequality in our country has reached a point where it is holding back growth.

If that is true, should we be increasing the minimum wage as an urgent stimulus tool for this economy, or increased income tax credit, or should we do both?

Secretary Perez. Well, I think you can do both. And the President put forth a proposal to expand the EITC. The EITC, as you know,

has enjoyed strong bipartisan support for decades, as have increases in the minimum wage. And I think they work very synergistically, and the President's proposal does just that.

In the Senate I believe it was Senator Rubio who had floated a proposal on the EITC, as well, and I hope that we can work together on that. Ronald Reagan was very proud of the work he did in expanding the EITC. It was a very important tool.

Mr. GRIJALVA. Mr. Secretary, 200 members of Congress sent a letter to the President based on the fact that the House leadership won't move on the ENDA bipartisan legislation that left the Senate, which would prohibit discrimination by federal contractors in this case based on sexual orientation or gender identity, and asking for an executive order. Your reaction to that?

Chairman KLINE. The gentleman's time has expired.

Mr. Salmon?

Mr. SALMON. Thank you.

Mr. Secretary, I noticed that the President's budget calls for an increase in funding for whistleblower protection programs—an increase of 12.8 million specific to OSHA. And we know that the purpose of whistleblower protections is to allow employees to shed light on corruption and abuse of powers. Are you supportive of that?

Secretary Perez. Absolutely. We have done a lot of work in that area and Congress has passed a number of very important statutes in recent years, and I look forward to not only trying to get that increased, but I would love to brief you on some of the differences that exist in certain whistleblower laws, because the laws that you have written more recently have remarkably robust protections. Some of the laws that have been on the books for decades could use updating, and we are actually working with a bipartisan group of people to try to address that.

Mr. SALMON. How important are those whistleblower protection that are in statute in ferreting out corruption?

Secretary Perez. I think whistleblower laws are a critical tool in our arsenal to make sure that our workplaces our safe, to make sure that financial services—whistleblower cuts across a wide swath of industry, and they have been a critical tool throughout and I am confident that they will continue to be. And I very much appreciate your question because I spend a lot of time with our staff talking about how we can do even more in this area.

Mr. SALMON. Thank you. I think we can do more.

In fact, are you aware that employees of unions are not afforded whistleblower protections and have, in fact, been fired without cause for simply exposing corruption? Is it time maybe to make sure that all employees be afforded whistleblower protections, including those that work for powerful union bosses.

Secretary Perez. Well, if you have specific circumstances where you think there is a hole in the law I would be happy to talk to you about the specific circumstance and figure out if it is covered under current law, and if it is, how we can make sure we enforce that law, and if it is not, have a conversation with you about whether it makes sense to move forward.

Mr. SALMON. I would love to do that. I just want to make sure that across the board that when corrupt practices are exposed by

people that are courageous enough to stand forward to do that, that they are protected regardless of what entity that they are with. I think that is a valuable tool.

Secretary Perez. As you know, our Office of Labor Management has done a steady diet of cases involving—and we have gotten a number of convictions for many years—

Mr. SALMON. Right.

Secretary Perez. —and I am very proud of the work they do—in cases that involve corrupt practices by labor unions and others.

Mr. SALMON. Right.

Secretary Perez. When the law is violated we will take action.

Mr. SALMON. Excellent.

On July 13, 2012 the case of 360Training.com, Inc. v. the United States and Clicksafety.com, Inc., the U.S. Court of Federal Claims found that OSHA violated federal procurement law related to online training for OSHA safety programs. Specifically, the court found that OSHA did not use the publicly announced solicitation criteria to select awardees. Court canceled all the awards for OSHA's online training programs, ordering OSHA to rebid the solicitation.

So OSHA's limited training outreach is leveraged through third party providers of in-person and online training. OSHA has now had almost two years to rebid the online training programs. What progress has been made by OSHA to reissue the solicitation?

Secretary Perez. I would have to get back to you on that because I don't know the specific details of that particular matter. I think you mentioned it was in 2012 and I tried to get briefed up on a lot of things that happened before I arrived, and I want to make sure I give you informed answers.

Mr. SALMON. Great. I just would submit that two years is plenty of time and would hope that we could move forward.

Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman KLINE. I thank the gentleman.

Mr. Bishop?

Mr. BISHOP. Thank you, Mr. Chairman.

And, Mr. Secretary, thank you very much for being here.

Secretary Perez. Pleasure to be here.

Mr. BISHOP. I want to pick up on the unemployment insurance issue that Mr. Tierney raised, but before I do I just want to put some facts on the table. In the chairman's opening statement he made the assertion that the President's policies are not working, and I just think it is important to put some facts around that.

From 2009 to 2014 we have added 8.5 million private sector jobs in this country. In the 10 years previous to that we lost 3.5 million private sector jobs in this country. And I think we can all agree that 8.5 million jobs added is not enough, but I would hope that we can all agree that adding 8.5 million jobs is quite a bit better than losing 3.5 million jobs, which we lost under the policies of the previous President.

But now let me just go to unemployment, if I could.

The CBO has issued a report that says that failure to extend unemployment insurance will result—pardon me; let me say it positively—that if we extend unemployment insurance compensation we will increase jobs by about 200,000. And I think, again, if you

ask any member of Congress what our number one priority ought to be I think most of us on both sides of the aisle would answer that we have got to put this country back to work.

So I guess what I am struggling to understand is why, when we have, as you put it, a consumption-deprived recovery—and when I ask business owners in my district what they need more than anything else, what they tell me is they need customers, which is the same thing that you are saying. So when we have a chance to put money in the hands of 2 million people who are going to go out and spend it on the everyday necessities of life, and in the process of doing so create 200,000 jobs, I am struggling to understand the opposition.

Would you agree with the CBO assessment that this is a—if we make this investment in alleviating human misery and helping people stay afloat while they are looking for work that we are ultimately going to create jobs as a result of that process?

Secretary Perez. Yes I do, in short. And the basic premise is that when we provide this lifeline to people we are putting money in their pockets. They spend it, and when you spend it businesses are making more money and they hire more people. And that is the essence of the 200,000 number that you see in that report, and that is one of many reasons why I think it is so critically important to extend that lifeline.

I mean, if we want to grow jobs comprehensive immigration reform is a pretty good idea, and the studies have pretty clearly documented the impact of comprehensive immigration reform, the Senate bill, on job creation. Investing in infrastructure—building our roads and bridges—is a way to create jobs. And so these are the things that the President continues to talk about.

We are proud of the progress that we have made. We will be the first to admit that there is more work to do and we need to pick up the pace of progress and make sure that people for whom the opportunity quilt is fraying can get that job that allows them to feed their family and have a modicum of decency, a decent retirement, the ability to go to a restaurant once in a while, the ability to look your kids in the eye and say, "I am providing for you." That is what I hear the most from folks who are fighting to get a job.

Mr. BISHOP. On the same theme, the Economic Policy Institute has estimated that if we increase the minimum wage we will put $35 billion into the economy without spending a dime of federal money and we will increase employment by approximately 85,000 jobs. Do you find those statistics to comport more with the studies that have been done over the years with respect to minimum wage than does the really vague estimate that the CBO put out?

Secretary Perez. Well actually, when you look at the estimates of the number—the billions of dollars, the debate is whether it is like $20 billion or $30 billion in the economy. That is real money. I mean, Mr. Elmendorf, as I understand, in the previous hearing in the Senate, indicated that this is—this program puts a lot of money—when you raise the minimum wage, for instance, it puts a lot of money into the economy and that is good.

And there was another study that demonstrated that you can reduce Food Stamps intake by 4.6 billion a year. We are trying to reduce Food Stamps in this country. One way to do it is to increase

the minimum wage. 4.6 billion a year and millions of people who would no longer be on the rolls.

People I talk to say, "I don't want to be on Food Stamps. I want to be self-sufficient but I can't make a decent enough wage."

Mr. BISHOP. Thank—

Chairman KLINE. Gentleman's time has expired.

Dr. Roe?

Mr. ROE. [Off mike.]

Secretary Perez. Morning, Doctor.

Mr. ROE. —on the subject of unemployment insurance, Mr. Secretary, I was meeting with our homebuilders at home about a week ago and in areas of the country I don't think there is no question that probably there does need to be unemployment insurance extension, and their comment was they can't find anybody to work now and they are afraid if you extend the unemployment insurance that it will encourage people to stay out until they have exhausted those. Whether that is true or not I don't know, but this was our area homebuilders.

And you bring up immigration reform—they are interested in immigration reform because they can't find workers to fill those jobs. So just a comment there.

And one other brief comment, if you want to actually stimulate the economy one of the things you could do is increase energy exploration in this country. For every 25 cents that a gallon of gas goes down it puts 35 billion in the consumers' hip pockets. So a coherent energy policy in this country—it wouldn't cost the taxpayers a nickel. You would stimulate the economy and to follow the logic that has been passed, the people would spend that money and drive the economy.

I have just a couple of quick questions. One is, we have one part of the health insurance market, Mr. Secretary, that is working very well, and that is the self-insured part. In this market right now there is a lot of controversy.

Whether you agree or don't agree with the Affordable Care Act, the self-insured market, which is about 60 percent of the ERISA market or a little more, it seems to be working. And one of the things that was brought up is the Department of Labor looking at regulating the stop-loss and changing the adjustment point. That is very, very important for people out there who have or use that portion of the market.

Secretary Perez. Congressman Roe, I am unaware of any efforts to regulate in the stop-loss area.

Mr. ROE. Very good. So we will take that as a no then.

The second thing I would like to ask—and this is a question I have been heavily—at least a situation I have been heavily involved in are pension plans. We provided a pension plan from the day I started work—

Secretary Perez. I remember talking to you about this.

Mr. ROE. We did, for over 30 years. And one of the things that—and I think it is extremely important for people who work for you for years and years and decades to retire at a reasonable lifestyle. I certainly agree with that.

One of the things that bigger companies—we were—we got big enough we could afford advice, but for people who have a 401(k)

or maybe an IRA, I know in the U.K. basically they have sort of had rules banning the financial advisors from receiving any kind of recall revenue from the funds they regulate—I mean, funds that they buy. And what has happened is many of the banks or some of the banks have dropped out of that business.

Do you think that this is a solution looking for a problem instead of a problem looking for a solution?

Secretary Perez. Let me comment on the U.K. issue. The U.K. banned commissions. We have never proposed nor do we intend to propose to ban commissions.

As to your question about whether it is a solution in search of a problem or a problem in fact, I strongly believe that it is a problem in fact. And we have a shared interest. As I mentioned before, the two most important decisions that people make financially in their lifetimes are the decision to buy a home and the decision now how to invest your retirement.

And whether you have $5,000 to invest or $500,000 to invest, we have a shared interest in making sure that the decisions you make are informed, that the person giving you that advice, just like in the home context, that broker or lender giving you that advice is looking out for your best interest, not for his or her, you know, lining of the pockets.

And we saw in the mortgage context that there were some really bad practices that transformed the American dream into the American nightmare through the corrosive power of—

Mr. ROE. That is a different issue than what I am talking about, and what I am saying is—because my time is short—is that I can go, I can pull up on my iPad right now and show you a 401(k) that I have that shows you the investment risk, the fees—everything is fully disclosed. And look, a net of fees, if my returns are excellent, I am really not as worried about what the fees are if my return is good, my net is.

That information is available right now. I can show you after this hearing if you want to see it my own personal 401(k).

And so anyway, just a point there. I think it is a problem looking for a solution.

I think my time is about expired so I will yield back.

Chairman KLINE. I thank the gentleman.

Mr. Loebsack, you are recognized?

Mr. LOEBSACK. Thank you, Mr. Chair.

And thank you, Secretary Perez, for being here today, making the time to testify before the committee.

I like the phrase "consumption-deprived economy." I think that makes a lot of sense. I think we all know that to the extent to which we have been experiencing a recovery in the economy, it has been weak and wanting and we have got quite a distance to go.

And I would agree that it is important to raise the minimum wage to get more money in folks' pockets so they could go out and buy the services, the goods, whatever that it is they need that they are not able to buy right now because they are not making enough money. So I am one of those also who strongly supports increasing minimum wage and I think it is really significant and best way to grow the economy, so I thank you for your support on that.

I do want to talk specifically a little bit about sector partnerships, something that, as you may know, I have been working on for many years, really going back to 2010, at a time when in the U.S. House we had significant bipartisan support for this. And I have actually worked with Chairwoman Foxx on this, in terms of the most recent attempt to reauthorize WIA. I have seen time and again where sector partnerships have been very, very effective in Iowa, and making certain that we close the skills gap that we see out there, especially at the mid-skill level.

And so I was really happy to see in the budget that there is some funding, some grants along these lines, but I also know that you worked in Maryland at the Department of Labor and you worked on these issues. Could you give us a little bit of history as far as your experience in Maryland working on sector partnerships?

Secretary Perez. Sector strategies are a critical lynchpin of an effective workforce system that is demand-driven. The sector strategy is simple. You take the biotech sector in Maryland—and we met with them, the employers—large, mid-size, and small; we brought educators in. We understood what their demand needs were not only today but 5, 10 years down the road, and working with the secret sauce of community colleges and other providers of education, we build that pipeline to the middle class.

And it is not simply biotech. It is health sector; it is hospitality; it is whatever—I was in Central New York recently. They are having a nanotech boom and we were talking about how we commercialize that. In other words, they have got great technology. Now we have got to turn it into a product that can make—can create jobs and grow a community.

This is tried and tested. And we have evaluated sector strategies in Maryland and through the work we are doing at the Department of Labor. This is a really critical and, I think, time-tested strategy, and that is what we support this throughout the country in our grant-making and in our work through our TAACCCT, which is our grants to community colleges to support sectors in various areas.

I really appreciate the leadership you have shown in Iowa and others have shown. You are totally correct, this is not a partisan thing. This is a good idea. And it is good across the ideological spectrum.

Mr. LOEBSACK. No, and I think it is important that, you know, while obviously most if not almost all of this is going to take place at the state and local level because it is about local communities thinking strategically for themselves about how they are going to grow their economy and how they are going to increase an industry or establish an industry and then find the folks out there with the skills who can actually be employed in the industry or the group of industries, whatever the case may be, but I also think it is important at the federal level we provide some incentive as well for folks to be thinking about that.

How do these grants that are in the budget—how would these work, as far as sector partnerships?

Secretary Perez. What we are trying to do is figure out what works and take it to scale. We know sector strategies work, so we are trying to take it to scale so that across this country we can take advantage of this.

Our work in Los Angeles, for instance, there are five or six community colleges in Los Angeles. They received an award under our TAACCCT program to help build capacity in the health care setting.

Prior to that grant these community colleges had never spoken to each other, so you could take, you know, Nursing 101 at Community College A and the curriculum was different than the curriculum in Community College B and it wasn't aligned to what the industry needed. And so we, in our match.com role, have been a facilitator of this partnership and collaboration. It is really simple but it is rather elegant and it really works.

Mr. LOEBSACK. And you can include apprenticeship programs, too, from labor unions, obviously, too, to train the skilled folks as well.

Secretary Perez. There is 27 return for every dollar of public investment in apprenticeship. And in the state of Wisconsin the average age of a skilled tradesperson is 59 years old. Businesses across this country are telling me, "We need to get the pipeline moving."

Mr. LOEBSACK. Thank you, Mr. Secretary.

And thank you, Mr. Chair.

Chairman KLINE. Thank the gentleman.

Mr. Guthrie?

Mr. GUTHRIE. Thank you.

Thank you, Mr. Secretary, for being here today.

Thank you, Mr. Chairman, for the recognition.

I want to talk about ESOPs—employee stock ownership plans. And it is important to me the largest ESOP in the country is actually in my hometown, Bowling Green, Kentucky, and it started as a grocery chain that went ESOP—was sold to the employees, and has expanded into a big market where, as a matter of fact, and created wealth. That is why I am interested in it because it has absolutely created wealth.

There is one of the grocery stores across from where I—a foundry that I worked, and the lady who made ham—worked at a deli counter in a medium-sized grocery store probably, my guess is, didn't make much north of minimum wage, retired with seven figures in her account—over a million dollars. So it is important.

And I know we are—so what I am focusing on is DOL's proposal to expand the definition of "fiduciary" to include independent appraisers of ESOPs. And my concern is it would jeopardize the long-term viability of ESOPs, raising the cost of administering the plans and creating barriers to establishing new ones. And ESOPs in private companies have documented record of being productive, profitable, and sustainable more than some of the conventionally owned companies.

And while no one disagrees—and I certainly don't disagree with going after any rogue actors, I am afraid we are throwing the baby out with the bathwater with this rule. The proposed rule is controversial, as evidenced by the Employee Benefits Security Administration withdrawing the first version of the rule.

So I'll get to my questions, then: What is the status of the second round of rulemaking, and does DOL intend to go ahead with a new version? And if so, what is the timeframe?

Secretary Perez. I don't have a precise timeframe, and I can't give you one right now because again, as I said in response, I think, to a question from the chairman, we are very concerned about getting things right. And so that is one of the most frequently asked questions I get in any rulemaking and my goal is always to get things right.

I am a huge fan of ESOPs, and so is the Department of Labor. And we have seen them remarkably successful in empowering workers to have ownership. And I loved your story.

Mr. GUTHRIE. Is there concern about—within the department if you put the independent appraisers as a fiduciary then the concern is that you would have a difficult time finding someone to appraise because they are now on the hook legally for that—

Secretary Perez. Here is the challenge that we need to thread the needle on, and I think it is a shared challenge: You are getting ready to sell your business. It is an ESOP and you are getting ready to sell your business, and the question presented is—and you are going to sell it to your employees.

Mr. GUTHRIE. Right.

Secretary Perez. And the question presented is, what is the business worth? And we have regrettably seen a number of cases where appraisals have been deliberately inflated—and by the way, we saw this in the mortgage setting, you know, "What do you need your appraisal to come in at?" And the appraisal masterfully came it at what you needed it to come in at during the height of the bubble.

And when that appraisal is deliberately inflated then it ends up hurting workers because they are buying a business that they are paying too much for and—then they potentially lose jobs. That is the problem we are trying to solve.

Mr. GUTHRIE. Well, my understanding is they would have—they have standing, though, in court if that—if it was a deliberate—for any appraisal. I guess they would have standing if particularly they thought it was a deliberate inflation to—against the trustees.

The concern that people, who are in the ESOP world, is that it would be just—they have to have an annual appraisal. That is part of the law to do so. And finding fiduciary—finding appraisers who would make the appraisal, given that they have the fiduciary responsibility, would either be real expensive because you have to buy insurance into it, and I am certainly—the description that you have about the deliberate increase—that does rip the employees off. It needs to be remedied.

The question is the way the department is going about it, would it—are there other ways to do it? Are there other options—

Secretary Perez. Well, I would love to brainstorm with you because I think we have a shared interest in getting this right and we have a shared affection for ESOPs. I know you do, and I know I do.

Mr. GUTHRIE. Because I would hate to see somebody cashing out their business at the expense of their employees.

Secretary Perez. Yes.

Mr. GUTHRIE. My experience of the one that—it is in my district that I am—that I know, because I know the people very well, they created an enormous amount of wealth for the employees and—and

matter of fact, most of the people who retire from—I mean, checkers in grocery stores now, because of some of the way they did their businesses, they are having to go through counseling almost like lottery winners do because they are used to living close to minimum wage or just above and all of a sudden they are retiring with seven figures in their account, especially if they have been there long-term because of some decisions that the ESOP made—the trustees of the ESOP made.

And so I would love to be able to have a dialogue with you about how we can—

Secretary Perez. Well, I would like to meet your ESOP.

Chairman KLINE. The gentleman's time has expired.

Mr. GUTHRIE. Okay, let's do that. I will do that. Thank you.

Chairman KLINE. Mr. Courtney?

Mr. COURTNEY. Thank you, Mr. Chairman.

And it is great to see you, Mr. Secretary. Just wanted—

Secretary Perez. Good to see you, sir.

Mr. COURTNEY. —to give you a little update actually within the last few minutes from the state of Connecticut, where you visited twice to talk about the minimum wage. The state senate just convened at 11 o'clock and within about an hour or so they are going to take up a minimum wage bill, which will take Connecticut up to 10.10. And the House, unlike this city, is actually poised to act immediately and by the end of the day or maybe into the wee hours of the morning Connecticut will pass a $10.10 minimum wage.

Of course, Mr. Chairman, I just point this out because the secretary has been to Connecticut twice—

Secretary Perez. Only once with the President.

Mr. COURTNEY. That is right. And also with the House members on the second visit, which—

Secretary Perez. Yes.

Mr. COURTNEY. —in any case, your arguments were, I think, very helpful in terms of creating an environment where the minimum wage bill will pass.

I also would point out that last week we had a job fair at Manchester Community College, right in the Hartford sort of eastern part of the state. We had over 60 employers there, which is higher than last year's equivalent event. Yesterday we had a Hiring for Heroes event in East Hartford Connecticut with over 80 employers.

So the job market is growing in Connecticut and we are already above the 7.25 minimum wage, so again, it is—the notion that this is, you know, somehow going to obstruct its recovery, just events in just the last few days in a state that is poised to move forward really kind of rebuts that.

And I also just want to thank you for pointing out the impact on SNAP and Food Stamps if we pass a minimum wage. I sit on the Agriculture Committee. We went through this unfortunate exercise to try and sort of chainsaw Food Stamps through the energy assistance calculation that goes into determining allotments, and governors all across the country are already sort of rebelling against that provision of the farm bill and protecting people's access to Food Stamps, which is probably going to pretty much eliminate any of the savings that folks in the city were trying to carve out of that program.

The better way to do it is to raise people's income, and as you point out, the savings that we would garner from raising the minimum wage far surpasses anything that folks were trying to do with the farm bill that just passed here. So again, thank you for your leadership in terms of making those arguments.

I also just want to note, you mentioned Katherine Hackett earlier today, who again, is one of the victims of the non-action on the unemployment extension. As you pointed out, she was in Connecticut, where it was a pretty cold winter, with the temperature in the 50s in the house because of the fact that unemployment ran out. She has, again, found employment, as you and I discussed, with a temporary position right now.

But I think it is important to also get out in the record that this is a woman who, again, has worked her entire adult life, paid taxes, two sons in the military, one Marine Special Forces the other a physician working at Fort Hood, Texas. There is not a more patriotic, dignified, upstanding American than Katherine Hackett, and the failure of this place to do what we have always done in past recessions, which is to pass an emergency unemployment, in her case, I mean, is really just a textbook example of the fact that, you know, we have got to get this done.

Individuals like her, who are out there busting their tail looking for work, deserve to get a lifeline so that they can keep a roof over their head and keep the heat turned on and the lights turned on in their house.

Lastly, I just want to ask you, the numbers just came out for veterans unemployment. Again, 7.2 percent is the national unemployment average. We are still looking at 9 percent unemployment for post-9/11 veterans.

I was wondering if you could just sort of comment in terms of, again, we had the jobs fair yesterday, which we coordinated through DOL, but, you know, what are some of the other initiatives from the department, including OFCCP, to try and promote better hiring amongst this deserving population?

Secretary Perez. Veterans employment has been an all-hands-on-deck enterprise in not only the administration—Department of Labor, Department of Veterans Affairs, Department of Defense—but also with the business community and so many others. I am really excited about the partnerships we have had with the U.S. Chamber, with labor unions, Helmets to Hardhats. People have really come forth in meaningful ways.

The 503 regulation is going to help so many people—so many veterans who are looking for work and need somebody to focus on their ability and not the first three letters of the word "disability." And so I am bullish.

And this is, again, another example of—when I hear critiques about too many programs, they are not programs; they are people and they are funding streams. It is like an app on an iPod or an iPhone. You know, we have a number of different apps to use for our veterans, and not every veteran needs every app, but some veterans do.

And it is nice that we have—and I want to commend Congress for the leadership in recognizing that we need to have a lot of different apps because there are different needs in that context.

Chairman KLINE. The gentleman's time has expired.

Dr. DesJarlais?

Mr. DESJARLAIS. Thank you, Mr. Chairman.

And thank you, Secretary Perez—

Secretary Perez. Pleasure to be here.

Mr. DESJARLAIS. —for joining us today.

In your testimony you talk quite a bit about collaboration and honest dialogue, but no matter who I talk to down in Tennessee, whether it is bakers, manufacturers, or famers - or anyone that is just trying to do the right thing for their employees and their families and their businesses - there seems to be some disconnect in the way I am sure you honestly set out to run the department and the way the department has interacted and continues to interact with stakeholders.

For example, Tennessee's 4th District is home to the largest farm bureau in the United States and agriculture is not just a way to make a living in Tennessee, it is a way of life. And no matter where I go, still I have farmers bring up the fact the department's ill-conceived and thankfully unsuccessful efforts to control not only how farmers run their farms but how they raise their families continues to come up.

But, you know, thanks to the outcry of the opposition and the work of a lot of my colleagues in Congress, this campaign was ultimately abandoned. Can you assure my constituents in Tennessee that the Department of Labor, under your leadership, will not pursue this sort of interference in family farms again?

Secretary Perez. Certainly. We understand the riders that have been put in place and we respect the will of Congress in that and we will do that.

The definition of a family farm, I have come to learn, is easier said than done. When I drive—and I spend a lot of time in rural Wisconsin because that is where my in-laws have a place, and, you know, farms that I see up there don't list, you know, how many employees they have at their farm; they list who they are.

And what has brought us in have been deaths—people in mostly grain silos who have been suffocated. And whenever we have learned during the course of our investigation that it fell within the definition of a family farm, we have left and—because we recognize the limits of our jurisdiction.

We want to make sure that we promote safety and we have really done a lot of work in that area, including child labor in this context. It is a very important issue.

Mr. DESJARLAIS. It is, and I thank you for that. And so we can also assure that the department in future regulatory efforts will at least reach out to learn more about how to define family farms before making unilateral changes to farm regulations. Can we count on that, as well?

Secretary Perez. I am actually very proud of the work that our OSHA folks have done in reaching out. They actually have a very aggressive safety outreach program for, you know, folks in the agriculture sector.

And the biggest issue that I have seen, again, has been this grain silo issue. I spoke to a family who had lost a child, and he and his best friend were holding each other's hands as they were

getting quite literally suffocated. And that is one of the many stories that you just reflect on over and over again—how can we prevent this?

And I am really proud of the preventive work that our OSHA is doing and I look forward to working with you to figure out ways—because no parent—no constituent, regardless of the size of a farm, wants to bury their child. And that is what we are working to prevent.

Mr. DESJARLAIS. But as you said, we need to be very careful when we move forward with blanket regulations, as well.

I am glad you brought up OSHA. On February 21, 2013 OSHA issued a letter of interpretation dramatically changing its policy related to the presence of third parties during an inspection. The agency reversed its previous position, stated that third parties could accompany the inspector even if they are not employees.

This change to longstanding policy, Mr. Secretary, raises a number of troubling questions. For instance, why was a change of this significance made through a letter of interpretation rather than the formal rulemaking process?

Secretary Perez. I don't believe it was a change of policy regarding third party representatives. The OSHA Act provides that a representative of the employer and an authorized representative of the employees are allowed to accompany the inspector, and so the department has permitted third parties to be walk-around representatives in order to make a contribution to a thorough and effective inspection, and this has been OSHA policy predating me, predating this administration, as I understand.

Mr. DESJARLAIS. Okay. Well, I know that it has caused some problems back home in my district, and recently had biomanufacturing mention this, but there is also concerns for them—for instance, how are employers expected to treat these non-employee individuals in relation to liability issues?

Secretary Perez. I am sorry. I didn't—

Mr. DESJARLAIS. How are they expected to treat these non-employee inspectors, in terms of liability issues if they are bringing them on the premises?

Secretary Perez. Well again, we work with employers all the time to accommodate this and that has not been an issue in the many years that we have been dealing with this matter to date. And I am more than willing to put our folks at OSHA in contact with employers in your community who have concerns.

Mr. DESJARLAIS. Thank you—

Chairman KLINE. Gentleman's time has expired.

Ms. Fudge?

Ms. FUDGE. Thank you very much, Mr. Chairman.

And I thank you, Mr. Secretary, for your testimony today. I just have a few questions, and I am certain that they shouldn't be too difficult.

The first one is, is there any validity to the assertion by the National Association of State Workforce Agencies as to our ability to determine retroactive pay for the emergency unemployment insurance?

Secretary Perez. Well, we have done it a number of times before and I think we can do it again. And I would note that the labor

commissioner in Nevada for the Republican Governor Sandoval noted, I think as recently as yesterday, that we can implement what is in place in the Senate bill. It can be done.

If you have the will to do it can be done. I have been a state labor secretary. We have done things like this and, you know, the—folks I talk to in state government have said to me that the burden that we would confront pales in comparison to the burden that long-term unemployed are confronting every single day. And so one person said it would be a privilege to get them their benefits back.

Ms. FUDGE. Thank you very much. Just so that we are clear, that means that the language in the Senate bill is fine?

Secretary Perez. I think the language is very workable, and they redid it, as I understand it, to address some of the concerns that were raised.

Ms. FUDGE. Thank you.

Job Corps. Job Corps is really very important. It is a very important program in my district as well as it is across the country.

Last year the Department of Labor was forced to reduce the number of slots available to youth due to cost saving measures that were implemented in 2012. Do you think that the department is going to be able to expand enrollment for students this next year?

Secretary Perez. I hope that we will. Job Corps—there were some—we fell short in the Job Corps setting. We, as a result of some failures of internal controls, failures in procurement, we ended up in a situation where we had to freeze enrollment.

That was on us. That was our fault. And there was an I.G. report and we have been working methodically to implement all of the recommendations there.

I am pleased to say that we have made tremendous progress. Enrollment is inching back up. And with the complement of resources we have in 2014 we hope in the very near future to be allocating additional slots. And our methodology there is we are going to be allocating it to the centers that are the most productive.

Ms. FUDGE. Thank you.

My home community college, Cuyahoga County Community College, the students there rely very heavily on the Trade Adjustment Assistance Community College and Career Training programs to learn skills that American businesses rely on. We have a huge manufacturing system in our state.

But it is my understanding that the funding for this program is going to expire next year. Is that correct?

Secretary Perez. We are about to undertake year four of four. It has been a 2 billion investment. There has been a remarkable return on investment and I would love to take anyone who is interested to your areas so that you can see the return on investment. It has been a real game-changer.

And I am hopeful that, again, in the spirit of our shared interest, and taking what works and taking it to scale, that we can do this.

Ms. FUDGE. Why would we not fund a very successful program? What happens when we don't fund it if this is one of the programs that works?

Secretary Perez. Well, we don't make the progress we need in getting people back to work and getting people their ticket to the

middle class. And that would be unfortunate because we really have had great success in the TAACCCT program.

Ms. FUDGE. Thank you.

And lastly, certainly I do commend you for your emphasis on expanding apprenticeship programs, and I believe that apprenticeships are a good way to create career pathways and improve an individual's earning potential. Please speak to how the department is planning to accomplish this goal of expanding apprenticeships.

Secretary Perez. Well, the President would like to double the number of apprentices in this country over the next 4 or 5 years. You go to Germany and you see the leadership that they demonstrate in the apprenticeship context and the stature that people in this world—in this field have, and we need to emulate that because we have, in this nation, over the course of, frankly, a few decades, somehow devalued career and technical education.

There is a bright future for people who want to work with their hands in this country. I know that because I go out and I talk to employers day in and day out. Ford Motor Company is very concerned about the number of electricians and welders that they are going to have. Their folks are retiring; their business is growing; they are in-sourcing production and they need this help.

And that is why I think apprenticeship is an area where I hope we can work together on, because you complete an apprenticeship program, you punch your ticket to the middle class. These are great jobs. They start at $27, $32 an hour plus benefits. Good stuff.

Ms. FUDGE. Thank you.

Chairman KLINE. Thank the gentlelady.

Mr. Rokita?

Secretary Perez. Good to see you again.

Mr. ROKITA. I thank the chairman.

Hi, Tom. How are you?

Secretary Perez. I am doing great. How are you, sir?

Mr. ROKITA. I feel I can call you Tom because we know each other—

Secretary Perez. Absolutely.

Mr. ROKITA. —from prior work. We both were Dow fellows, and for the record, you know the purpose of that program is to bring people from all sides—different sides of the aisle—who are very strong in their preferred ideologies and introduce them to each other. We studied the great texts and—

Secretary Perez. Traveled.

Mr. ROKITA. —and travel and get in a situation like this and actually come to some solutions for the country. So let's test that.

I have an idea. I think that regardless of a union contract—and, you know, we can argue back and forth about the social value of a union contract and that is not the point—but regardless of a union contract, if an employer of a union employee wants to give that employee a raise that employer should be able to do that.

If we are interested in the worker, if we are interested in those four pillars that you talked about at the beginning of your testimony, this seems like a reasonable idea to me. Why be beholden to a union contract if an employer wants to give an individual employee a raise? Could you support an ideal like that?

Secretary Perez. When you look at the data from the Bureau of Labor Statistics, the median wage of a person—of a union member is $200 more than the median wage of a nonunion member, and that actually doesn't include benefits. The benefit package would—

Mr. ROKITA. I am not talking about union versus nonunion. I am talking about in a union shop, if a union employer wants to give an individual union employee a raise, can't they do that?

Secretary Perez. Well again, I think the answer is—and the reason I gave that data is they have been. And as a result, the union—

Mr. ROKITA. But the scenario is one union employee, not the whole union shop, a raise.

Secretary Perez. Well again—

Mr. ROKITA. Good or bad?

Secretary Perez. —I think the—whatever the agreement is going to govern the terms of how they move forward, and again, I look at that Bureau of Labor Statistics data and I think it has worked well for union members who, again, have a median income of $200 more than nonunion members doing similar work.

Mr. ROKITA. No, no, no. But again—I mean, we could go round and round and eat up my 5 minutes, and I hope you would give me more respect than that—the idea of giving one union employee a raise is good, right?

Secretary Perez. Well again, I think you want to give people a raise, but—

Mr. ROKITA. —union contracts, is it true—we have talked about minimum wage here a little bit—isn't it true that a lot of union contracts, and maybe you know the percentage, are key to the minimum wage rate, such that if we raise the minimum wage and made it a national law, federal law, even though you are the, supposed to be the unbiased umpire of union contracts and disagreement therewith, wouldn't this automatically bump up the pay under a lot of union contracts?

Secretary Perez. Well, as I understand the data, you increase the minimum wage and there are something—depending on what study you look at, roughly 15 million to 19 million people who are directly affected, and then there are another category of people—eight to 10 million people—who are affected and they are affected because their wage is slightly above the minimum wage and employers will react to that by—

Mr. ROKITA. Do you know the percentage of union contracts that are keyed to the minimum wage—

Secretary Perez. I don't know the answer to that.

Mr. ROKITA. Okay.

Silica dust, the permissible exposure limit. Do you know what percentage of American businesses, employers are in compliance with the current limits?

Secretary Perez. I don't have a precise answer to that question, and I am sure our OSHA folks can work with you to answer any questions you might have.

Mr. ROKITA. Sixty to 70 percent is what I think it is, based on what I have read. Does that surprise you?

Secretary Perez. I don't know what the answer is so I don't want to guess.

Mr. ROKITA. Let's assume it is 60 to 70 percent. Now we could go two ways from there. We could either use your—the resources in your budget—and I am on the Budget Committee; I have seen your resources. And by the way, I could build the pyramids with your budget even under a union contract.

Now, if the goal is workplace safety why wouldn't we use those resources to get more in compliance, get that 70 percent, which is a decent number, up to 90, 95, or whatever percent? Why go and get a whole new set of regulations that is actually going to reduce the compliance rate when you have a limited resource in terms of your budget?

Secretary Perez. Well actually, if you look at the work it is not an either-or situation. The work that OSHA has been doing in the compliance setting has been significant. They have many tools in their arsenal, including prevention. In the grain silo context they have been doing a lot of preventive work so that people aren't going to funerals.

In terms of your question of—I don't know if it is 30, 40 percent, 70 percent, but I will say this: If my daughter—if I knew that my daughter had a 30 or 40 percent chance of going into a workplace and having that exposure kill her I wouldn't want her to be in that workplace.

Mr. ROKITA. Yes. Agreed. So why—

Chairman KLINE. Gentleman's time has expired.

Mr. Sablan?

Mr. SABLAN. Thank you very much, Mr. Chairman.

And, Mr. Secretary, welcome and thank you very much—

Secretary Perez. Good to see you again.

Mr. SABLAN. —for your service to our country.

It was people like Senator Inouye, now Mr. Miller, and your predecessor, Ms. Solis, who pushed and enacted Public Law 110–229, which extended the federalized immigration to the Northern Mariana Islands, and the law established a 5-year transition period during which foreign workers were to be replaced by U.S. workers. This transition period ends this December.

But the law foresaw the possibility that 5 years might not be enough time so the secretary of labor—so you were given the authority to extend the transition period if, and I quote: "necessary to ensure an adequate number of workers will be available for legitimate businesses," end of quote. And the secretary was required to make a decision one way or the other, Mr. Secretary, within 180 days of the end of the transition period.

So I as—we ask the question, what kind of progress have we made in the Northern Marianas over the past 4 years? When the period—transition period began in 2009 there were over 17,245 foreign workers, according to the GAO. As of October of 2013 the Department of Homeland Security said there were 9,617, so I think that is significant progress in getting to entirely U.S. workers.

But I also think it is clear that getting to zero by the end of this year is not possible, which is—that is why I wrote to your predecessor in February of 2013, almost 14 months ago actually, asking for a decision to extend the period—the extension period. And I asked for that decision to be made sooner rather than later because

leaving the decision to the last minute leaves businesses uncertain whether they would have an adequate number of workers.

Leaving the decision to the end of transition period would also have less number of, say, consumers in the Northern Marianas, and so if the businesses don't invest, they don't create jobs, and that plays hell on an economy trying to pull itself out of a deep recession. That is the economic argument.

Now, there is the humanitarian concern as well, because waiting until the last minute leaves 9,617 foreign workers hanging in the breeze. Many of these people have lived in the Northern Marianas for decades; they have families and homes there.

If they have to be gone by the end of this year we owe them the courtesy, Mr. Secretary, of letting them know as soon as possible. They need to start looking for work elsewhere, selling their belongings, and moving their families and their kids.

But for 14 months your department has been unable or unwilling, sir, to make a decision. Now, Mr. Secretary, I know that the Northern Marianas does not have an admirable history that—when it comes to foreign workers. Mr. Miller will tell you that himself.

But it is possible that your department does not trust the Northern Marianas will replace foreign workers with U.S. workers, that we are just buying time. But I remind you, sir, the annual number of foreign workers is not a decision of the Northern Marianas government. The Department of Homeland Security sets that number and the law requires fewer and fewer each year.

For this year Homeland Security set the number at 14,000. That is a long way from zero.

I also want to remind you, sir, that my office has reached out to your department to ask that you provide technical assistance to the Northern Marianas and advice on how to train up U.S. workers. We really want your help.

We want to complete the transition that Public Law 110–229 requires, but we need to do it in a way that keeps our economy whole and does not put the jobs of U.S. workers in that economy at risk. And that uncertainty in the absence of your decision, sir, is not helping.

So I hope you will take my words to heart, Mr. Secretary. I am not asking my question, sir, I am just making a statement and hoping that you would hear us and then make the decision soon.

Having said that, Mr. Chairman, I also—I fully support increasing the federal minimum wage to $10.10, and I know that may sound strange coming from someone who asked for a delay in the minimum wage in my district. I did so because in my view the rate increase in the Northern Marianas since 2008 needed to be tempered. But I have never wavered in my commitment to see workers in the Northern Marianas receive the full minimum wage and I know they will be glad to see it increase to $10.10 an hour.

Mr. Chairman, that is my statement. Thank you.

Chairman KLINE. I thank the gentleman.

Dr. Bucshon?

Mr. BUCSHON. Thank you very much.

Secretary Perez. Morning, sir.

Mr. BUCSHON. Thank you, Mr. Secretary. My dad was a coal miner and I was a physician, and that will lead into some of the questions that I have regarding.

I am concerned about the scientific basis upon which MSHA's proposed respirable dust rule is predicated on and the availability of technology to reduce dust concentrations to levels contained in the proposal. GAO is currently conducting analysis of this rule to include a review of the technological and other options available for lowering the level—lowering the level of dust in coal mines and the cost advantages and disadvantages of these technologies.

Do you think you would be willing to take into consideration all the relevant information and conclusions from the pending GAO study before finalizing that rule?

Secretary Perez. I cannot comment specifically about the rule because, as you know, it is still under consideration and so I am limited in what I can say. What I can say is that it has been a very, very lengthy process, and appropriately so—an exhaustive process, an inclusive process. And we have learned a lot.

We learned, for instance, you know, when we studied the tragedy at UBB in West Virginia the medical examiner reported that 17 of the 24 victims who had enough lung tissue to be tested showed evidence of black lung even among miners who had been there as little as five years. And so this is an issue that is very real. The impacts are real.

I mean, mine safety is very real. As you know, there was a fatality—I think we notified your office about it yesterday—

Mr. BUCSHON. Yes there was, in my district.

Secretary Perez. —in Indiana, and our thoughts and prayers go out to the victim and the victim's family. And it is a constant reminder of the stakes.

And that is why we had such a lengthy comment period and we had seven public hearings around the country because we knew in this particular context that we had to make house calls and get out there—

Mr. BUCSHON. Thank you for that information on—as far as the hearings go, as you probably know, most of those didn't occur in coal areas; they were in more urban areas unrelated to the coal industry. But that said, you know, historically I have tried to get the data from MSHA and HHS about the studies that the proposed rule is based on and have pretty much been stonewalled on that based on HIPAA regulations, as far as this being personal medical information. As you know, most medical journals produce aggregate data almost on a daily basis.

So do you think that I might be able to get the aggregate data that shows the actual evidence behind the proposed rule?

Secretary Perez. Well again, our NPRM had a pretty significant amount of information about the underlying basis, including the fact that pneumoconiosis has been the underlying or contributing cause of death for more than 76,000 coal miners since 1968 and the cost of compensating disabled coal miners and beneficiaries has exceeded, I think, $45 billion since 1970.

Mr. BUCSHON. Yes. I wouldn't dispute those numbers. My question is, is changing from two to one, you know, your respirable

dust—the impact that would have and what the scientific basis for that change.

Miner safety is number one in my mind. Everybody I knew growing up and my father were underground coal miners. I was a thoracic surgeon who treated all of these people in practice.

The numbers you talk about are true. The dispute, I think, can be from the technological availability and whether or not there is actually scientific evidence to show that the rule change will make—have an impact.

I have another question regarding your letter, March 11, 2014, to Chairman Kline and Representative Walberg. You referred to TRICARE providers as "TRICARE subcontractors" throughout. As your letter acknowledges, the National Defense Authorization Act, NDAA, made it clear Congress' intent to exclude TRICARE providers from OFCCP's jurisdiction.

To be clear, is it your view, yes or no, that TRICARE providers are, in fact, federal subcontractors regardless of the moratorium?

Secretary Perez. Well again, I have had a lengthy conversation with both Chairman Kline and Chairman Walberg, and we discussed the fact that OFCCP has been exercising jurisdiction over TRICARE subcontractors since the late 1990s. At the same time, I saw the information in some of the contracts that created conflict, and that was why I offered the proposal that I offered to the chairman to address that issue and—deal with the situation, and that was—and we continued to have conversation in that area.

And so we will continue to work on this issue and we have taken steps in the aftermath with Chairman Walberg, with Chairman Kline, and with Congressman Courtney.

Mr. BUCSHON. Thank you very much.

I yield back.

Chairman KLINE. I thank the gentleman.

Ms. Wilson?

Ms. Wilson of Florida. Thank you to the chair and ranking member for today's hearing.

Mr. Secretary, I want to thank you for your work with the attorney general in making Miami a safer place to live. Thank you so much.

And thank you for being here today and speaking to us about these very important issues, especially extending emergency unemployment compensation and raising the minimum wage. I have said it over and over again, the mantra of this Congress should be jobs, jobs, jobs. But until my colleagues in the House pass a serious employment agenda, extending emergency unemployment compensation and raising the minimum wage is the least we can do. We need to help the people of America.

If we raise the minimum wage people will have more money to spend, companies will be able to create more jobs, people will have higher salaries and pay more in taxes, and American workers will be happier and healthier. Everyone wins and America wins.

Mr. Secretary, it is shameful that we have not extended unemployment compensation to the millions who are unemployed. It is un-American to hurt those who are down on their luck.

In my district, on the bright side, there is a model of how to improve the economy through targeted investments in education pro-

grams. A collective effort between Florida International University, Miami-Dade County Public Schools, and local business helped position graduates to succeed in college or in STEM careers, including apprenticeships, internships, and careers they never dreamed would be in their portfolio, and we want to replicate and expand this program by working with your agency. This initiative is having a significant impact on thousands of my constituents and making South Florida an attractive place to live.

I have two questions for you if the time permits. Several of my colleagues and I have expressed concerns about the department's proposed fiduciary rule and its effect on our constituents' access to retirement planning and financial advice. Can you assure us that the revised fiduciary proposal will not negatively impact lower-income workers' ability to receive investment advice?

Secretary Perez. That is certainly a goal of ours and that is what we are going to work toward.

Ms. Wilson of Florida. That is what you are going to work toward?

Secretary Perez. Absolutely.

Ms. Wilson of Florida. Well, we appreciate that because so many people are learning to save for the first time in their whole—the whole family has never saved, and they are going to need advice. And we don't want anything to interfere with that, so thank you very much.

Can you please discuss the impact of raising the minimum wage, what kind of impact that would have on Florida, when estimated 1,732,000 people would see an increase in their income?

Secretary Perez. It is money in people's pockets, and when people have money in their pockets they spend it. And when they spend it, businesses have to hire more people because people are spending more. And it would enable—I don't know the precise number; I would have to disaggregate from the national data—but it would enable, you know, many, many Floridians to get out of poverty.

It would enable working women to be able to feed their children and not have to make the choices between a gallon of milk and a gallon of gas. And these are choices that people tell me that they make week in and week out, and these are choices that people in America in the year 2014 shouldn't have to make.

Ms. Wilson of Florida. Mr. Secretary, are there any plans in place for summer jobs for youth through local workforce agencies or OIC or the Urban Leagues of our—especially in our urban districts?

Secretary Perez. We have certainly had many conversations with business leaders about summer jobs issues. I just spoke to the CEO a couple days ago of Jamba Juice, which has been a leader in summer youth employment. They are a California-based company with a national footprint and they have been a national leader in this area.

As you know, there was money in the Recovery Act to assist in summer jobs. That money has largely dried up.

The President has a proposal to invest in this, because I will tell you the research shows that summer jobs work. When people get the chance to see what it is like to show up at 8 o'clock and work till 5 o'clock and get that mentoring, it makes a difference. And

that is why the President wants to take something that has worked and take it to scale.

Chairman KLINE. Gentlelady's time has expired.

Ms. Bonamici?

Ms. BONAMICI. Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for being here today. I really appreciate your testimony and your work, and I apologize for not being here during the questioning. I am in two hearings today.

So recently I joined some of my colleagues on the committee and sent you a letter asking you about the Department of Labor efforts to ensure equitable treatment in the workplace for LGBT workers. I want to thank my colleagues, Mr. Polis and Mr. Pocan, for leading that effort and thank you for your prompt reply. I look forward to working with all of you on this issue.

An issue of significance in Oregon and, of course, nationwide is the need to provide good compensation to hard-working Americans, and I support Ranking Member Miller's proposal to increase the minimum wage. Glad to see the administration recognizing the importance of that issue.

Oregonians increased the minimum wage and linked it to the CPI by ballot initiative back in 2002, and I want to note that effort was supported by the Oregon Catholic Conference and other members of the faith community, as well as poverty advocates. And I have to say, we have one of the highest minimum wages in the country at this point and it is working just fine.

One issue I wanted to discuss more closely with you today are the recent efforts by the administration to address the skills gap. This is something that I hear about when I am out in the community on a regular basis.

I have introduced a bill—it is called the WISE Investment Act, which is Workforce Infrastructure for Skilled Employees Act—to help close the skills gap by better connecting local workforce boards, community colleges, and vocational schools with local employers, especially small businesses. And I heard the President task Vice President Biden with a review of federal worker training programs so I am encouraged about making progress in this area. You said in your testimony something about the soup to nuts approach.

So will you please talk a bit about what the Department of Labor is doing about the skills gap and provide an update on the progress being made by the Vice President on his task force in evaluating federal worker training efforts?

Secretary Perez. Sure. This is an issue near and dear to my heart, and here is the good news: Everywhere I go employers are bullish about the future. They want to expand their footprint.

There was a study recently by the Boston Consulting Group about—they survey businesses that are doing business in China, and over half said they want to come back. So there is a lot out there. There is a lot of opportunity out there today and tomorrow and years from now.

There are structural things happening in this country in manufacturing, including but not limited to our advantages in intellectual property, our supply chain, our workforce, our energy costs. Good things are happening, and the challenge I hear from em-

ployer after employer is, "How do we make sure we have that skilled workforce to succeed?" And that is what we are trying to do.

I spoke about our investments in apprenticeship. We need to double—frankly, we probably need to do more than double—the number of apprentices in this country so that people can have access to these jobs.

I spoke to the CEO of PG&E, the utility out in California—in Northern California, and he talked about the multi-trillion dollar future investments in our utility infrastructure in the United States in the years ahead and the workforce needs that come with that.

Ms. BONAMICI. Right.

Secretary Perez. Again, good middle-class jobs. And so we are working to invest in those areas.

The sector strategies that Congressman Courtney talked about, where we are understanding at a regional level how many—what are your health care needs? How many allied health professionals do you need? How many nurses do you need? And then working in partnership with community colleges and others to meet those demand needs and help people punch their ticket to the middle class through those training programs.

Oregon has done a great job on short-time compensation. You have been a national leader. I would love to see other states take that up. You really have done a great job. It is a very powerful layoff aversion strategy.

And what the Vice President is doing is we are compiling the things that work and taking them to scale, figuring out where we have areas of improvement—and we have undeniable areas of improvement in issues of performance measurement, data collection, areas like that. And so we are learning about this.

This isn't a pat-yourself-on-the-back exercise. This is about making sure that we are doing the best job possible.

Ms. BONAMICI. And then in the remaining time I just wanted to address the issue of emergency unemployment compensation for the long-term unemployed. I had a roundtable discussion with several people who were long-term unemployed, and I have to say that this was putting faces on the people who are out of work, they were looking for work on a daily basis, applying for jobs. They were more mature than—you know, they weren't teens; they were people who had worked for several years.

So can you discuss a little bit about who is the population of—well, now my time is expired but maybe if you could respond to the committee, who are the long-term unemployed? Because I have found that they are people who are supporting families, trying to make rent payments, mortgage payments, and they are looking for work. They need this lifeline so that they can put gas in their car and have a phone to—

Chairman KLINE. The gentlelady's time has indeed expired.

Ms. BONAMICI. Thank you, Mr. Chairman.

Chairman KLINE. Mr. Pocan?

Mr. POCAN. Thank you, Mr. Chairman.

And thank you, Mr. Secretary. It is very nice to meet you today.

Secretary Perez. Good to see you.

Mr. POCAN. It is great to hear you have roots to my home state of Wisconsin through your wife and in-laws. I appreciate that.

I would like to try to get to three or four areas as I bat cleanup here, so first would be on the minimum wage. I am a small business owner. I have been an employer for 26 years.

I kind of straddle an interesting area. I also have a union shop, so I kind of am business and labor but a member of the Painters and Allied Trades for that time, as well.

And my business almost exclusively deals with other small businesses, and what I hear are the things that have come up today about, you know, it is smart to pay people more. You can retain them; there is less cost in trying to train employees.

And also the "consumption-deprived economy"—I am going to use that term now—that you talked about, that really people know that if that money gets out there it is going to help all of our small businesses. So we are hoping for something like this.

But the one thing that wasn't discussed today was something that I have seen in the state of Wisconsin as a former legislator there, which is when we don't pay people more, when the minimum wage is as low as it is, we wind up subsidizing as taxpayers through programs like—whether it be food assistance programs, health assistance programs, et cetera. Do you have anything to comment on some of the subsidies that we all as taxpayers pay when people aren't paid enough?

Secretary Perez. Well, most recently there was a study that indicated that raising the minimum wage to $10.10 would result in $4.6 billion per year—$46 billion over 10 years in savings in Food Stamps alone. And that doesn't include other subsidies.

As your income goes up, by the way, your Earned Income Tax Credit will eventually diminish. You still would be eligible for some, but not as much. And we are rewarding work.

I was working as a Senate staffer in 1996 when welfare reform passed, and it wasn't simply about getting people to work; it was getting people self-sufficient. And that was my recollection.

And the minimum wage was increased at the same time and President Clinton talked about how we are raising this minimum wage because we do have a goal of promoting self-sufficiency, and that is—I mean, when you think about it, $4.6 billion reduction. We have had a debate about Food Stamps. I want less people to be on Food Stamps, and most importantly, the people I meet who are working 50 hours and still relying on Food Stamps, they want to be off Food Stamps but they can't because they are not making enough money.

Mr. POCAN. Great. Thank you.

Emergency unemployment benefits. For the State of the Union I brought as my guest someone who had lost their benefits in December—a steamfitter, worked all of his life, played by the rules, and his wife actually wrote us and the real problem that they highlighted was they had to put their home for sale rather than get foreclosed on. Their daughter wanted to bring a friend over for dinner; they said, "We can't afford another plate."

So this is a real issue to people in my district growing every single week that we don't take action. Are there any credible argu-

ments about why you can't do retro-pay with unemployment comp, as you have heard?

Secretary Perez. I have not had—again, I used to be a state labor secretary. This has been done multiple times. This wheel has been invented. It can be done. It has been done; it can be done again.

And as I said before, what one state official said to me was, you know, the burden on states pales in comparison to the burden that families are confronting, like the families you have both described.

Mr. POCAN. Thank you.

Then let me ask on apprenticeships. Mr. Miller and I are working on an apprenticeship bill right now. As I mentioned, I come from the trades.

When the economy gets a cold, people who work in the trades get pneumonia. We were up to 24, 26 percent unemployment. You mentioned Wisconsin. We have got people 59 years old. That is the age we are looking at a lot of these programs.

We need to get people into the apprenticeship programs. I am really glad to see that you are looking at some of these programs and expanding, and I agree, I think you could expand even more than what we are expanding.

I was just wondering if you are familiar with the program in Milwaukee, the Building Industry Group, BIG STEP, which helps get people to jump into the trades from underrepresented populations?

Secretary Perez. Well, the average age, I said, of a person in the skilled trades is 59 in Wisconsin. The average age of a Latino in Wisconsin is 17. I know where the future of the workforce is, and they are in the city of Milwaukee and they are in Racine and they are in many other corners of the state.

And programs like the program you describe are programs that enable people to have a career pathway, and that is a big part of what we are trying to do. That is what apprentices do. Apprenticeships give you that career pathway, and those careers, as you well know, Congressman, because you have lived it, you have led it, they pay really, really good wages. And that is where investments like that program you describe in Milwaukee need to go.

Mr. POCAN. Thank you.

In 5 seconds, if I can—

Chairman KLINE. No, the gentleman's time has expired.

Mr. POCAN. Okay. All right.

Chairman KLINE. Mrs. Davis, you are recognized as the last questioner? And the secretary has been kind enough to extend his stay until 12:15 so ask fast.

Mrs. DAVIS. Okay. Thank you, Mr. Chairman.

And thank you, Mr. Secretary—

Secretary Perez. An honor to be here.

Mrs. DAVIS. I think anyone who has sat here and listened to you or heard you today recognizes that many, many programs are in place and are working well. And yet, a lot of people feel that the economy just still is not quite taking off the way that it should.

In a nutshell, what is holding the economy back?

Secretary Perez. Well, we need to pick up the pace of progress. And I think we know what works.

When we have invested historically in infrastructure we put people to work in good jobs and we are doing real projects. That is one

way to help the building trades. That is one way to get people back to work.

When we pass comprehensive immigration reform we grow the economy. When we do the issues—when we address the challenges that we are addressing in the skills set we grow the economy because people have access to the skill set that enables them to get the jobs that are available today and survive tomorrow.

Mrs. DAVIS. You know, the GAO reported—and you mentioned, I think, 15 million to 19 million—16.5 million is the figure that the GAO had used of people who would benefit. I think there obviously has been some focus also on whether 500,000 jobs or whatever that number might be would be lost. Why the focus not on the 16.5 million people that really impacts, women particularly, who are minimum-wage workers and their children? And we know that has a multiplier effect when children are more exposed to all the advantages that any other child has.

Secretary Perez. And in addition to the 16 million or 17 million or 18 million, depending on the study, there are the other folks who are indirectly benefitted because they are slightly above the minimum wage and statistics say that the combined impact is about 28 million. And we talked before about the billions of dollars that this puts into the economy at a time when businesses need it.

Mrs. DAVIS. Is that a tough story to tell?

Secretary Perez. I think it is pretty straightforward. I think we have done it many times before.

And, you know, they call it economic theory for a reason. You know, sometimes you have got to get it into the reality, and the reality is, you know, in states like Washington that have increased the minimum wage years ago, we have a laboratory to figure out, you know, has Washington gone to heck in a handbasket? And the answer is no, actually, they are one of the most robust economies in this country, notwithstanding the fact that a tipped worker in Washington State is making the minimum wage. They have leveled the playing field. They are allowing more people to make ends meet.

Mrs. DAVIS. Thank you, Mr. Secretary. And as you know, I have a little bit of time left—just a little, and the chair is pushing.

My colleagues have really done a good job, I think, in trying to pull together a few of the pieces that I wanted to talk to you about—the veterans programs that we have that many of the other programs that are working to help our innovation economy. While, you know, we still do see that veterans unemployment is lower, I am also impressed, though, that in addition to the G.I. bill and in addition to many programs at the universities that really go well beyond educating and training and then not just praying for the veterans but, you know, really putting in a support system that helps them.

I had a number of veterans that came to me and said, "Why aren't we doing more of that for either the long-term unemployed or people who have been looking for a job?" Do you see in the programs that you are taking a look at and the Vice President is taking a look at—you have mentioned a number of those here today, the sector strategies—where we are really making a difference, I

mean, where you think there is a real value added in the way the programs are moving forward now?

Secretary Perez. Are you referring to the long-term unemployed?

Mrs. DAVIS. Not just the long-term unemployed, but especially, you know, as we are trying to match the needs of the economy, the future innovations, and today.

I mean, one of the things I would just say really quickly is—and I am not sure why this is happening, Mr. Chairman, but we have the America Competes Act. We ought to be moving forward on that. The Science Committee ought to be doing that. I am not sure why that is not happening.

But what is it that you are doing that really answers the need that the America Competes Act should be doing right now?

Secretary Perez. What we are doing is working on a regional level to understand what is happening in Northern California, what are the needs of employers in Northern California, and then working with our educational infrastructure there—community colleges, 4-year colleges, high schools, and others—to match that need so that people can punch that ticket to the middle class.

Going into Minnesota, where the demand needs are different. Getting a handle on that. Listening, learning, and then putting together the partnerships that enable people to have those career pathways that enable them to get access to not only the jobs of today but then to survive the jobs of—the downturn of tomorrow.

I grew up in Buffalo, New York. I saw ups and downs. And the challenge we had in Buffalo, New York was that 40 years ago a ninth-grade education enabled you to punch your ticket to the middle class. That is just not true anymore, and—for all too many folks, and that is why we need to up-skill America to make sure that they can survive not only today but they can weather the storms that may be 10, 15 years down the horizon.

Mrs. DAVIS. All right. Thank you.

Secretary Perez. Thank you.

Chairman KLINE. Gentlelady's time has expired.

And we are running over, so let me recognize Mr. Miller for any closing remarks?

Mr. MILLER. Thank you, Mr. Chairman, and thank you so much for this hearing and, Mr. Secretary, for your participation.

Mr. Chairman, it has been referred to numerous times this morning the report on the minimum wage by the National Economic Council. I would ask unanimous consent it be made part of the record of this hearing?

Chairman KLINE. Without objection.

[The information follows:]

THE IMPACT OF RAISING THE MINIMUM WAGE ON WOMEN

And the Importance of Ensuring a Robust Tipped Minimum Wage

March 2014

Embargoed for 6:00 AM on March 26, 2014

This report was prepared by the National Economic Council, the Council of Economic Advisers, the Domestic Policy Council, and the Department of Labor

The Impact of Raising the Minimum Wage for Women:
And the Importance of Ensuring a Robust Tipped Minimum Wage

Introduction and Summary

Over the past 30 years, modest minimum wage increases have not kept pace with the rising costs of basic necessities for working families. No one who works full time should have to raise his or her family in poverty. The President supports raising the minimum wage to help build real, lasting economic security for the middle class and create more opportunities for every hardworking American to get ahead. The President knows this is important for workers, and good for the economy. That is why the President has already signed an executive order to raise the minimum wage and tipped minimum wage for federal contract workers and is calling on Congress to raise the Federal minimum wage from $7.25 to $10.10 per hour and index it to inflation thereafter, while also raising the tipped minimum wage for the first time in over 20 years.

Raising the minimum wage is especially important for women because:

- Women in the workforce are more highly concentrated in low-wage sectors such as personal care and healthcare support occupations.

- Women account for more than half (55 percent) of all workers who would benefit from increasing the minimum wage to $10.10.

Women also make up the majority of workers in predominantly tipped occupations. Under Federal law, employers are allowed to pay a "tipped minimum wage" of $2.13 per hour to employees who regularly earn tips as long as their tips plus the tipped minimum wage meet or exceed $7.25 per hour.

- Women account for 72 percent of all workers in predominantly tipped occupations – such as restaurant servers, bartenders, and hairstylists.

- Average hourly wages for workers in predominantly tipped occupations are nearly 40 percent lower than overall average hourly wages.

- Workers in predominantly tipped occupations are twice as likely as other workers to experience poverty, and servers are almost three times as likely to be in poverty.

- About half of all workers in predominantly tipped occupations would see their earnings increase as a result of the President's proposal.

The Federal tipped minimum wage has been stuck at $2.13 for over 20 years. Partly as a result, tipped workers are at greater risk of not earning the full minimum wage, even though employers are required by law to ensure that employees' tips plus their employer-paid wage meet or exceed the full minimum wage.

- Since 1991, the tipped minimum wage has declined by 40 percent in real terms. Today, the tipped minimum wage equals just 29 percent of the full minimum wage, the lowest share since the tipped minimum wage was established in 1966.

- When surveyed, more than 1 in 10 workers in predominantly tipped occupations report hourly wages below the full Federal minimum wage, including tips. This fact highlights the challenges of ensuring compliance with minimum wage laws for tipped workers, as the employer contribution has been eroded by 20 years of inflation.

- Many states have recognized the need for a greater employer contribution to the wages of tipped workers. Currently 32 states (including the District of Columbia) require employers to pay tipped workers an hourly wage that exceeds the Federal tipped minimum of $2.13 – and seven of these states require employers to pay both tipped and non-tipped workers the same state minimum wage before tips.

Raising the full minimum wage and the tipped minimum wage will help reduce poverty among women and their families, as well as make progress toward closing the gender pay gap.

- About one-quarter (26 percent) of all workers who would benefit from increasing the minimum wage to $10.10 have dependent children, and 31 percent of female workers who would benefit have children.

- 2.8 million working single parents would benefit from the President's proposed increase in the full minimum wage, more than 80 percent of whom are women.

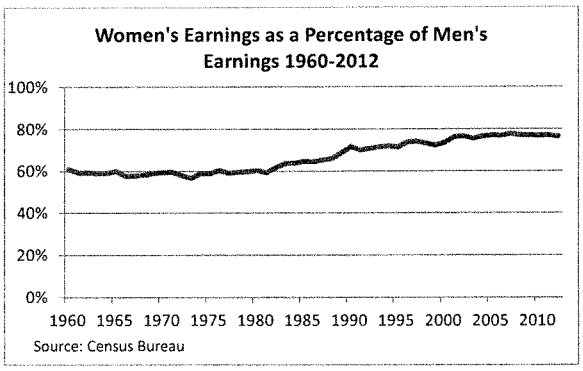
- Research shows that raising the minimum wage reduces child poverty among female-headed households.

- Increasing the minimum wage can also help women work their way out of poverty and into the middle class.

- For every dollar that men earn, women earn just 77 cents. Estimates from the President's Council of Economic Advisers suggest that increasing the minimum wage to $10.10 an hour and indexing it to inflation could close about 5 percent of the gender wage gap.

I. Why the Minimum Wage Matters for Women

Despite progress in narrowing the gender wage gap in the 1980s and 1990s, women earn just 77 cents for every dollar that men earn, a figure that has remained constant for the past decade.[1] While many factors contribute to the gender pay gap, one reason is that women are overrepresented in low-wage work, which suggests the minimum wage can be a tool in reducing the pay gap between men and women. For example, while women account for 30 percent or less of employees in some high-wage sectors such as computer and mathematical science and architecture and engineering occupations, they account for more than 70 percent of the workforce in low-wage sectors such as personal care and healthcare support occupations.[2]



Because women are disproportionately represented in low-wage work, they would also disproportionately benefit from an increase in the minimum wage. Women constitute more than half (55 percent) of all workers who would benefit from the Harkin-Miller proposal supported by the President to increase the minimum wage from $7.25 to $10.10. Of the more than 28 million workers who would benefit from the proposed minimum wage increase, 15.5 million are women.[3]

Despite the persistent gender wage gap, more women are breadwinners for their families than ever before. Women's labor force participation increased considerably from the 1940s through the 1980s. Although women's labor force participation has flattened since the mid-1990s, employed women's earnings account for an increasingly larger share of total family earnings. Between 1970 and 2013, working married women's contributions to their family earnings

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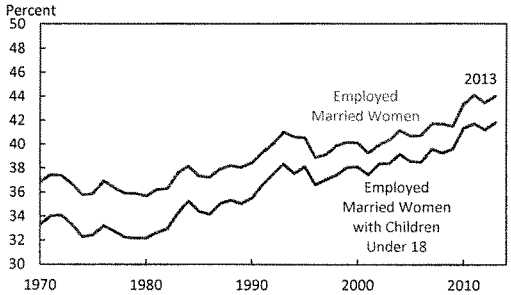
[1] Census Bureau, Historical Table P-40.

[2] Census Bureau, Current Population Survey, 2012.

[3] Council of Economic Advisers based on Current Population Survey data.

increased from 37 percent to 44 percent.[4] A recent Shriver Report analysis notes that women – including both married and single mothers – are breadwinners or co-breadwinners in nearly two-thirds of families with children as of 2009, compared to less than 30 percent of families in 1967. Working moms now make up about 40 percent of primary breadwinners for American families with children.[5] Roughly 7.4 million working single mothers were the sole breadwinners for their families in 2012.[6]

Employed Married Women's Percent Contribution to Family Earnings



Source: Current Population Survey, Annual Social and Economic Supplement

Employed women have continued to increase their contributions to their families' income over the past 40 years. Over the past decade, women are increasingly working more hours throughout the year even as the gender wage gap has not improved and labor force participation has remained relatively flat. Moreover, working women in low-income families contribute a greater share of family resources than working women in higher-income families, underscoring the importance of the minimum wage to low- and moderate-income families.[7]

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[4] Census Bureau, Current Population Survey.

[5] Breadwinners are defined as single working mothers or married working mothers who earn as much as or more than their spouses; co-breadwinners are married mothers who earn between 25 and 50 percent of the couple's earnings. Center for American Progress, Infographic: How Far We've Come and How Far We Need to Go, January 12, 2014, http://www.americanprogress.org/issues/economy/news/2014/01/12/81859/infographic-how-far-weve-come-and-how-far-we-need-to-go/. See also Wendy Wang, Kim Parker, and Paul Taylor, Breadwinner Moms, Pew Research Center, May 29, 2013, http://www.pewsocialtrends.org/2013/05/29/breadwinner-moms/.

[6] Census Bureau, Current Population Survey, Family Income Tables.

[7] Council of Economic Advisers based on Current Population Survey. Married women's earnings account for a greater share of total household earnings in households where total income is below the median.

II. Importance of Ensuring a Robust Tipped Minimum Wage

Women are not only disproportionately represented in minimum wage work overall, but they also make up the majority of workers in predominantly tipped employment and are thus disproportionately impacted by the tipped minimum wage. Under Federal law, tipped workers are covered by the same Federal minimum wage as other workers, currently $7.25 per hour. However, there are special provisions which allow employers of tipped workers to pay an hourly wage of only $2.13, so long as employee tips make up the difference between $2.13 and $7.25; this difference is also known as the "tip credit" to employers.

Nearly three out of four workers in predominantly tipped occupations are women. These are occupations where employees are likely to receive tips and include restaurant servers, bartenders, barbers, hairdressers, massage therapists, other personal appearance workers, and gaming service workers.[8] Tipped occupations are also more likely to be lower-wage. Average hourly wages for workers in predominantly tipped occupations are nearly 40 percent lower than overall average hourly wages.

Of the 3.3 million workers in predominantly tipped occupations, about 2.0 million (60 percent) are waiters and waitresses (i.e. servers), 70 percent of whom are women. And while tipped workers overall tend to earn less than other workers, servers earn less than other tipped workers. Thus while workers in predominantly tipped occupations overall are twice as likely as other workers to experience poverty, servers are almost three times as likely to be in poverty.[9]

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[8] We define predominantly tipped occupations as those that are most likely to report receiving tips, commissions, or overtime in the Current Population Survey (CPS). The CPS does not ask survey respondents separately about their tip income, therefore we are unable to directly identify tipped workers from available data. We instead identified occupations where workers are likely to receive tips, following the methodology in Allegretto and Filion (2011).

[9] Sylvia A. Allegretto and Kai Filion, "Waiting for Change: The $2.13 Federal Subminimum Wage," Economic Policy Institute and Center on Wage and Employment Dynamics, Briefing Paper #297, 2011.

Wages and Gender Composition of Predominantly Tipped Occupations

Occupation	Share of tipped workers	Median wage	10th percentile wage	Women as share of employment
All workers	---	**$17.12**	**$8.33**	**48%**
Predominantly tipped occupations:				
Servers	60%	$9.83	$5.97	70%
Barbers	2%	$10.70	$6.43	27%
Misc. personal appearance workers	7%	$11.33	$7.13	84%
Hairdressers	14%	$12.05	$6.65	95%
Bartenders	11%	$12.44	$7.10	56%
Massage therapists	3%	$15.04	$8.43	76%
Gaming Services	3%	$15.46	$8.57	49%
Total predominantly tipped occupations	**100%**	**$10.64**	**$6.44**	**72%**
Source: Council of Economic Advisers based on Current Population Survey data.				

Because women account for the majority of workers in tipped occupations – and because jobs that rely on tips tend to pay less than other occupations – most of the workers who would benefit from an increase in the tipped minimum wage are women. The Harkin-Miller proposal supported by the President would not only increase the full minimum wage to $10.10, but would also increase the tipped minimum wage to $4.90 by 2016 and eventually to 70 percent of the full minimum wage. While women account for 55 percent of all workers who would benefit from the proposed minimum wage increase, they account for three-quarters of all workers in predominantly tipped occupations who would benefit.

Enforcement Challenges Due to the Tipped Minimum Wage

By Federal law, all workers covered by the Fair Labor Standards Act (FLSA) must be paid the full minimum wage of $7.25 per hour. Employers *must* pay tipped workers *at least* a tipped minimum wage of $2.13 per hour, and if workers' tipped earnings are less than the amount needed to ensure they earn the full minimum wage, their employer must make up the difference to ensure their total pay meets or exceeds the full minimum wage. In practice, however, this provision is difficult to enforce. When surveyed, more than 1 in 10 workers in predominantly tipped occupations report hourly wages below the full Federal minimum wage, including tips. (By comparison, just 4 percent of all workers report hourly wages below the minimum wage.)[10] Raising the full minimum wage without also raising the tipped minimum wage could exacerbate noncompliance; the greater the difference between the tipped

[10] Council of Economic Advisers based on Current Population Survey data. For the purposes of this report, hourly wages are computed by dividing weekly earnings by usual hours worked on the main job. As noted by other analysts this definition sometimes leads to imputed hourly wage estimates below the hourly wage exclusive of overtime, tips, and commissions reported by hourly workers in the survey, implying negative tips. Replacing such implausible implied wages with the reported hourly wage exclusive of overtime would lead to slightly higher estimated wages, but does not alter the substantive conclusions presented here.

minimum wage and the full minimum wage, the more likely it is that tipped workers will not earn enough in tips to earn the difference.

In order for employers to pay the tipped minimum wage of $2.13, employees must earn about 70 percent of their wages in tips to bring their overall wage to $7.25. However, the typical tipped worker receives far less than 70 percent of their wages in tips. Even servers and bartenders make just about 60 percent of their wages in tips, on average. Workers in almost all other tipped occupations earn substantially less from tips as a share of their total wages.[11]

The rules for tipped workers are complicated and can be confusing for employers and employees alike. One of the most prevalent violations is the failure to keep track of employee tips and therefore the failure to "top up" employees if their tips fall short of the full minimum wage. Additionally, minimum wage compliance is determined on a weekly basis, such that tipped workers may earn less than the full minimum wage on any given shift. For example, a server is permitted to earn $2.13 per hour while working a slow shift as long as their tips and wages for the rest of the week ensure they earn an average weekly wage of at least $7.25 per hour.

The Wage and Hour Division at the Department of Labor (DOL) administers and enforces Federal standards for wages and working conditions, including the FLSA. While the failure to ensure that employees are earning the minimum wage is the most prevalent wage and hour violation, other violations occur. For example, other violations include failing to pay overtime wages as required for weekly hours worked over 40; failing to pay the full minimum wage when tipped employees are asked to perform non-tipped work such as cooking, cleaning, and stocking in excess of 20 percent of their time; or failing to pay employees any wage at all (leaving them to work only for the tips they make). While employers are allowed to let employees who customarily receive tips (such as servers, bussers, and bartenders) pool tips among other workers, requiring employees to share tips with employees who do not typically receive tips (such as cooks, dishwashers, chefs, and janitors) is prohibited. Moreover, aside from valid tip pooling arrangements, a tip is the property of the employee and may not be retained by management.

In February 2014, the Wage and Hour Division concluded one of its largest tipped employee investigations in recent years. DOL alleged that a Philadelphia restaurant chain had illegally retained a portion of servers' tips, among other violations of the FLSA's minimum wage, overtime, and recordkeeping requirements. As a result of this investigation, the restaurants agreed to pay more than $6.8 million in back wages and damages.

The President's Budget calls for a $41 million (18 percent) increase in funding for the Wage and Hour Division over current levels in order to support 300 new investigators and adapt

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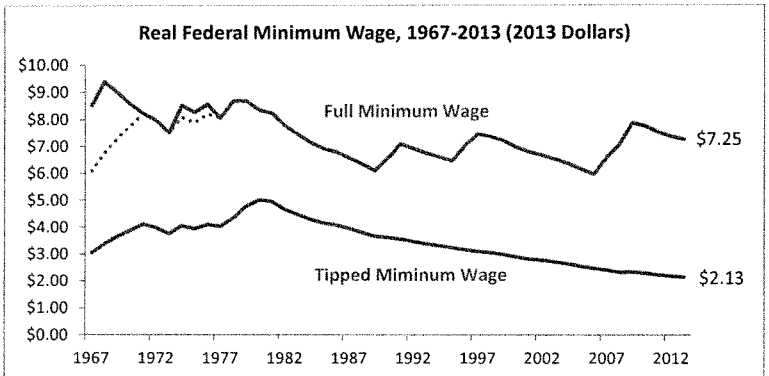
[11] The Payscale 2013 Tipping Study, http://www.payscale.com/data-packages/tipping-chart-2013.

enforcement practices to the 21st century workforce.[12] While enforcement efforts from DOL have helped crack down on egregious cases of wage violations, raising the tipped minimum wage would substantially improve conditions for tipped workers.

Erosion of the Tipped Minimum Wage

Though increases in the Federal minimum wage were passed in 1996 and 2007, the tipped minimum wage has remained stuck at $2.13 an hour since 1991 – losing 40 percent of its value in real terms over the last 23 years. The real decline has resulted in less security over time for tipped workers whose employers pay the Federal wage floor of $2.13.



Note: Between 1967 and 1977, a separate full minimum wage applied to workers newly covered by the 1966 FLSA amendments. This wage is shown by the dotted line. Since 1977, the same Federal minimum wage has applied to all covered workers.
Source: Bureau of Labor Statistics. Nominal figures are inflation-adjusted using the Consumer Price Index.

Nearly 50 years ago, most tipped workers were not covered by any Federal minimum wage requirements. In 1966, amendments to the FLSA first applied the Federal minimum wage to the vast majority of tipped workers and effectively established a tipped minimum wage at 50 percent of the full Federal minimum. The Senate Report on the 1966 legislation noted the "great need for extending the present coverage of the act to large groups of workers whose earnings today are unjustifiably and disproportionately low."[13]

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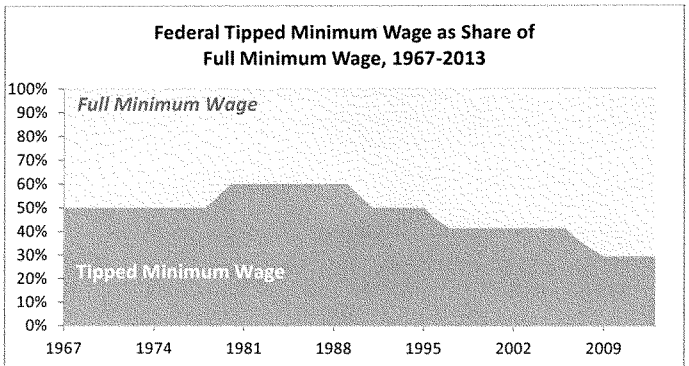
[12] See Department of Labor, FY 2015 Congressional Budget Justification, Wage and Hour Division, http://www.dol.gov/dol/budget/.

[13] Senate Report (Labor and Public Welfare Committee) No. 89-1487 on HR 13712, 1966 U.S.C.C.A.N. 3002, 3004 (1966).

Historically, the tipped minimum wage was defined as a percentage of the full minimum wage, with the tipped minimum wage never falling below 50 percent of the full minimum wage prior to 1996. However, the 1996 FLSA amendments severed this relationship, effectively decoupling the tipped minimum wage from the full minimum wage. As a result, the tipped minimum wage has declined both in real terms and as a share of the full minimum wage over time and remains at its 1991 nominal level. Today, the Federal tipped minimum wage is just 29 percent of the full minimum wage. This means that employees who are paid the tipped minimum wage must earn 70 percent of their wages through tips to earn the full minimum wage. At a minimum wage of $7.25, tips must be at least $5.12 an hour, and this portion of the minimum wage that employers do not expect to pay has also grown over time.



Note: The tipped minimum wage is shown as a share of the full minimum wage for workers newly covered by the 1966 FLSA amendments. (Between 1967 and 1977, a separate full minimum wage applied to workers newly covered by the 1966 FLSA amendments. Since 1977, the same Federal minimum wage has applied to all covered workers.)
Source: Bureau of Labor Statistics

States Demonstrate Benefit of Higher Tipped Minimum Wage Laws

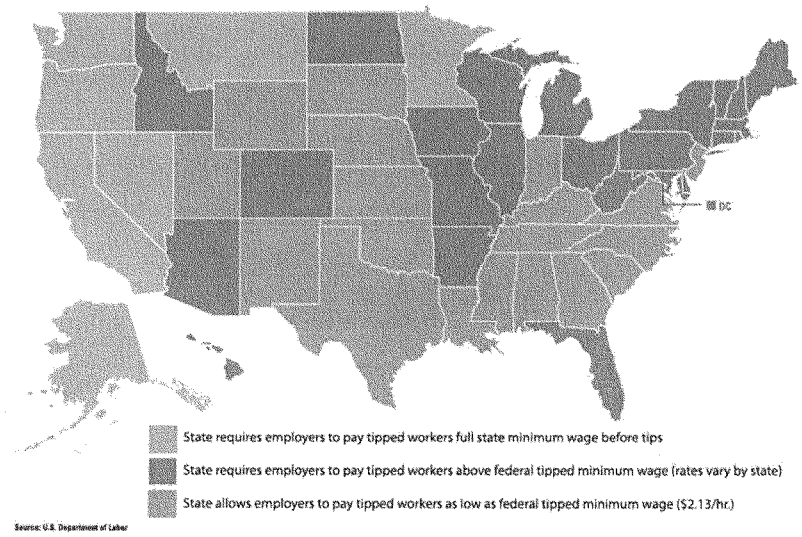
As with the full minimum wage, many states have adopted higher tipped minimum wages. Thirty-two states (including the District of Columbia) require employers to pay tipped workers more than the Federal minimum tipped wage, and 7 of those states have no employer tip credit, meaning tipped workers and non-tipped workers must be paid the same state minimum wage by their employer before tips.[14] States across the political spectrum have enacted raises in the tipped minimum wage above the Federal wage of $2.13, including California – the country's biggest state economy – where the full state minimum wage and tipped minimum

[14] We classify Minnesota as a no-tip credit state because its state tipped minimum wage equals the state total minimum wage of $6.15. However, because most employers must nonetheless pay the Federal minimum wage of $7.25, Minnesota's tipped minimum wage is less than the effective full minimum wage.

wage are both $8.00. The same is true in Montana, where both wages equal $7.90, and Alaska, where they are both $7.75. In states like Florida and Arizona, the tipped minimum wage is nearly $5.00, more than 60 percent of the full state minimum wage.

However, the Federal tipped minimum wage of $2.13 still prevails in 19 states. About 30 percent of the workforce lives in states where the tipped minimum wage equals the Federal $2.13, about 50 percent live in states where the tipped minimum wage is greater than $2.13 but less than the full state minimum wage, and about 20 percent live in states where the tipped minimum wage and the full state minimum wage are equal.[15]

THE TIPPED MINIMUM WAGE BY STATE



Cross-state analysis of the wages of tipped workers finds that a higher tipped minimum wage boosts earnings for low-income tipped workers and, as such, may reduce poverty for tipped workers. Poverty is considerably lower for tipped workers, and especially servers, in states that require employers to pay tipped and non-tipped workers the same minimum wage before tips. By comparison, poverty rates for non-tipped workers are similar in states that require and do

[15] Allegretto and Filion 2011.

not require employers to pay tipped and non-tipped workers the same wage, suggesting that the differences in poverty among tipped workers may be partially related to the higher tipped minimum wage.

Poverty Rates by State According to State Tipped Minimum Wage Policy

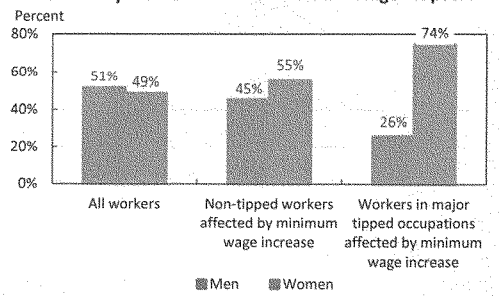
	State tipped minimum wage			*Percentage point difference in poverty:*
	Federal minimum ($2.13)	Between $2.13 and full state minimum	Equals full state minimum	*Equal states vs Federal minimum states*
All Workers	7%	6%	7%	*0%*
Tipped Workers	16%	15%	12%	*-4%*
Servers	19%	16%	14%	*-6%*
Percentage point difference in poverty: waiters vs all workers	*13%*	*10%*	*7%*	

Note: Official Census poverty measure based on 2007-2009 March Current Population Survey
Source: Allegretto and Filion 2011

III. Benefits of Raising the Minimum and the Tipped Minimum

Raising both the full and tipped minimum wage would help address poverty, as well as the gender pay gap. More than half of all workers who would benefit from increasing the minimum wage to $10.10 are women, and three-quarters of workers in predominantly tipped occupations who would benefit from increasing the minimum wage are women.

Gender Composition of All Workers and Those Directly Affected by the Harkin-Miller Minimum Wage Proposal

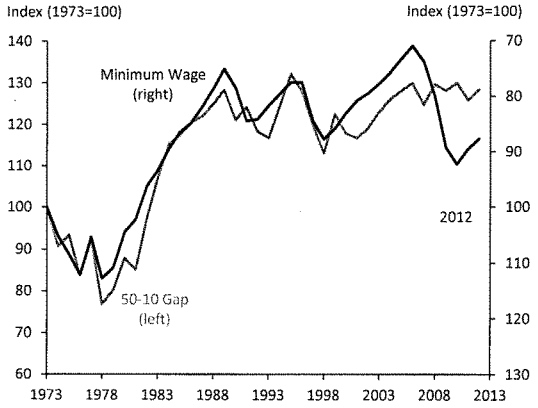


Source: Current Population Survey, CEA calculations

Importantly, many of the benefits of the President's proposal to increase the minimum wage to $10.10 accrue to mothers: 31 percent of female workers who would benefit have children. Moreover, women constitute more than 80 percent of the 2.8 million working single parents who would benefit from the President's proposed increase in the minimum wage.[16] One study also finds that the minimum wage reduces child poverty in female-headed households.[17]

The minimum wage can also be a powerful tool in helping women work their way out of poverty and into the middle class. Researchers have found that the decline in the real minimum wage during the 1980s accounts for a sizable portion of the increase in the women's "50-10" wage gap – that is, the difference in wages between low-earning women at the 10th wage percentile and women at the 50th wage percentile, or the median. One recent study concludes that the decreases in the real minimum wage during the 1980s can account for between one-third and one-half of the increase in the women's 50-10 wage gap.[18]

Women's 50-10 Wage Gap vs. Real Minimum Wage, 1973-2012



Source: CEA calculations based on updated data from Lemieux (2007).

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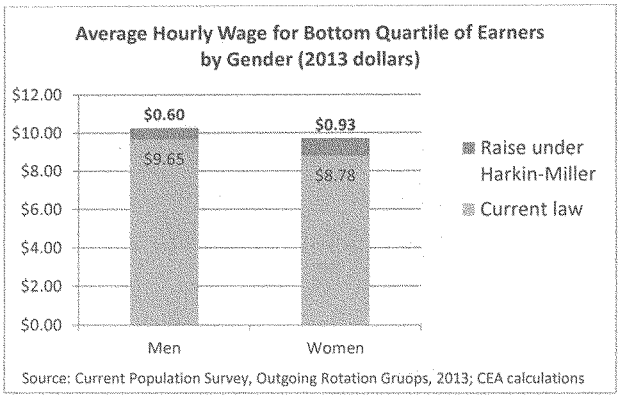
[16] Council of Economic Advisers based on Current Population Survey data.

[17] Robert H. DeFina, "The Impact of State Minimum Wages on Child Poverty in Female-Headed Families," Journal of Poverty, vol. 12, no. 2 (October 2008), pp. 155–174, http://dx.doi.org/10.1080/10875540801973542.

[18] Low-wage income inequality is measured as the difference between the log of median earnings to earnings at the 10th percentile of workers (the 50-10 ratio). See, e.g. Dinardo, John, Nicole Fortin, and Thomas Lemieux. Labor Market Institutions and the Distribution of Wages, 1973-1992: A Semi-parametric Approach. http://www.nber.org/papers/w5093; David Autor, Alan Manning, and Christopher L. Smith, The Contribution of the Minimum Wage to U.S. Wage Inequality over Three Decades: A Reassessment. http://www.federalreserve.gov/pubs/feds/2010/201060/201060pap.pdf.

Raising the minimum wage would also make progress toward closing the gender pay gap, which remains about 23 cents on the dollar. That is, for every dollar that men earn, women earn just 77 cents. Estimates from the President's Council of Economic Advisers suggest that increasing the minimum wage to $10.10 an hour and indexing it to inflation could close about 5 percent of the gender wage gap.



While research on the tipped minimum wage is much more limited, raising the tipped minimum wage would benefit low-wage tipped workers – the majority of whom are women – without providing a windfall to higher-wage workers or adversely affecting employment. Some have suggested that raising the tipped minimum wage would give a raise to all tipped workers, including the very few who earn high wages through tips. However, nearly all workers in predominantly tipped occupations (90 percent) earn less than $21 per hour – the equivalent of about $42,000 working full-time, and less for part-time workers.[19] In fact, raising the tipped minimum wage may have very little impact on wages above $12 per hour. An analysis by the Council of Economic Advisers, utilizing state variation in tipped minimum wage policies, found that increases in the tipped minimum wage increase the probability of earning higher total wages – including both tips and employer wages – at low wage levels up to about $11-12 per hour.

Additionally, a recent working paper from economist Sylvia Allegretto finds that – like most research on the full minimum wage – raising the tipped minimum wage has little to no impact on employment. Allegretto finds that implementing a policy similar to the Harkin-Miller proposal supported by the President would have very little effect on restaurant employment

[19] Council of Economic Advisers based on Current Population Survey.

while boosting overall earnings for workers in full-service restaurants. Specifically, she finds that impacts on employment are "small and not distinguished from zero."[20]

Moreover, raising the tipped minimum wage along with the full Federal minimum wage would level the playing field for employers who already play by the rules. Raising the minimum wage without also raising the tipped minimum would exacerbate existing enforcement challenges, since it would leave workers receiving only 21 percent of their wages from the tipped minimum wage and require even more employers to top off wages in order to be in compliance with the full minimum wage.

The President is leading the way toward a nationwide increase in the minimum wage through his recent Executive Order to increase the minimum wage to $10.10 for federal contractors. The Executive Order also increases the tipped minimum wage for federal contractors to $4.90, with increases of $0.95 per year until it reaches 70 percent of the full minimum wage. States, too are leading the way toward ensuring wage fairness for tipped workers. For example, a number of states passed minimum wage laws in 2006 that also raised their minimum wages for tipped workers by at least $1.00 effective January 1, 2007: Arizona (from $2.13 to $3.75), Colorado ($2.13 to $3.83), Montana ($5.15 to $6.15), Nevada ($5.15 to $6.15), and Ohio ($2.13 to $3.43).[21] Thirty-two states (including the District of Columbia) already have a tipped minimum wage higher than the Federal $2.13 an hour, and 9 of those states require employers to pay tipped workers equal to or greater than 70 percent of the prevailing full minimum wage.

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[20] Sylvia Allegretto, "Waiting for Change: Is it Time to Increase the $2.13 Subminimum Wage?" Institute for Research on Labor and Employment, Working Paper No. 155-13, December 16, 2013.

[21] *See* Wage and Hour Division, Minimum Wage for Tipped Employees 2006, http://www.dol.gov/whd/state/tipped2006.htm; Wage and Hour Division, Minimum Wage for Tipped Employees 2007, http://www.dol.gov/whd/state/tipped2007.htm.

Appendix: State-by-State Full and Tipped Minimum Wage

Effective Minimum Wages by State

State	Full	Tipped	Tipped as share of Full	Tip Credit	State	Full	Tipped	Tipped as share of Full	Tip Credit
WA	$9.32	$9.32	100%	$0.00	DC	$8.25	$2.77	34%	$5.48
OR	$9.10	$9.10	100%	$0.00	MI	$7.40	$2.65	36%	$4.75
NV	$8.25	$8.25	100%	$0.00	AR	$7.25	$2.63	36%	$4.62
CA	$8.00	$8.00	100%	$0.00	MA	$8.00	$2.63	33%	$5.37
MT	$7.90	$7.90	100%	$0.00	WI	$7.25	$2.33	32%	$4.92
AK	$7.75	$7.75	100%	$0.00	DE	$7.75	$2.23	29%	$5.52
HI	$7.25	$7.00	97%	$0.25	AL	$7.25	$2.13	29%	$5.12
MN	$7.25	$6.15	85%	$1.10	GA	$7.25	$2.13	29%	$5.12
WV	$7.25	$5.80	80%	$1.45	IN	$7.25	$2.13	29%	$5.12
CT	$8.70	$5.69	65%	$3.01	KS	$7.25	$2.13	29%	$5.12
NY	$8.00	$5.00	63%	$3.00	KY	$7.25	$2.13	29%	$5.12
CO	$8.00	$4.98	62%	$3.02	LA	$7.25	$2.13	29%	$5.12
IL	$8.25	$4.95	60%	$3.30	MS	$7.25	$2.13	29%	$5.12
FL	$7.93	$4.91	62%	$3.02	NC	$7.25	$2.13	29%	$5.12
AZ	$7.90	$4.90	62%	$3.00	NE	$7.25	$2.13	29%	$5.12
ND	$7.25	$4.86	67%	$2.39	NJ	$8.25	$2.13	26%	$6.12
IA	$7.25	$4.35	60%	$2.90	NM	$7.50	$2.13	28%	$5.37
VT	$8.73	$4.23	48%	$4.50	OK	$7.25	$2.13	29%	$5.12
OH	$7.95	$3.98	50%	$3.97	SC	$7.25	$2.13	29%	$5.12
ME	$7.50	$3.75	50%	$3.75	SD	$7.25	$2.13	29%	$5.12
MO	$7.50	$3.75	50%	$3.75	TN	$7.25	$2.13	29%	$5.12
MD	$7.25	$3.63	50%	$3.62	TX	$7.25	$2.13	29%	$5.12
ID	$7.25	$3.35	46%	$3.90	UT	$7.25	$2.13	29%	$5.12
NH	$7.25	$3.27	45%	$3.98	VA	$7.25	$2.13	29%	$5.12
RI	$8.00	$2.89	36%	$5.11	WY	$7.25	$2.13	29%	$5.12
PA	$7.25	$2.83	39%	$4.42					

Notes where state minimums default to Federal:

4 states have full state minimum wages below the Federal minimum wage: AR ($6.25), GA ($5.15), MN ($6.15) and WY ($5.15). Minnesota's state full minimum wage is equal to its tipped minimum wage.

5 states do not have a state full minimum wage: AL, LA, MS, SC, TN

6 states do not have a state tipped minimum wage: AL, GA, LA, MS, SC, TN

Mr. MILLER. And, Mr. Secretary, thank you. I want you to continue to focus on what the decisions about people's retirement. In working with people who advise individuals and small businesses, the question around fees and cost are very, very important. John Bogle, the founder of Vanguard, will tell us that fees can eat up 30 percent of your retirement savings without you ever thinking about it, and the people that play with other people's money, they have a fiduciary relationship and they have an obligation to those retirees.

And so I think that you are headed in the right direction. This is a very important subject. It has been before the Congress for a long time, but it really is about whether or not people are going to have sufficient retirement savings for the rest of their lives, and so I don't want to suggest that somehow that is complicated and we really shouldn't get into it. It is very important to retirees and to their families.

Thank you so much for your service and thank you for your—again, for being here.

Chairman KLINE. I thank the gentleman.

And I, too, thank you, Mr. Secretary, for coming.

Secretary Perez. Thank you.

Chairman KLINE. I, too, would ask you to look closely at that fiduciary rulemaking. You have seen real bipartisan concern here; you have heard it from my colleagues on both sides of the aisle. We are concerned about the timing, what the SEC is doing, what you are doing, and what the impact will be on important advice that people, particularly low-income people, might need.

So I would ask you to look at that with that awareness in mind.

I apologize we did run over. I want to thank you again for extending your time a little bit to accommodate our questions. Look forward to continuing to work with you.

Secretary Perez. Me too.

Chairman KLINE. There being no further business, the committee is adjourned.

[Questions submitted for the record and their responses follow:]

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August 6, 2014

The Honorable Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Avenue, Northwest
Washington, DC 20210

Dear Secretary Perez:

Thank you for testifying at the March 26, 2014 Committee on Education and the Workforce hearing entitled, "Reviewing the President's Fiscal Year 2015 Budget Proposal for the Department of Labor." I appreciate your participation.

Enclosed are additional questions submitted by committee members following the hearing. Please provide written responses no later than August 20, 2014, for inclusion in the official hearing record. Responses should be sent to Zachary McHenry of the committee staff, who can be contacted at (202) 225-4527.

Thank you again for your contribution to the work of the committee.

Sincerely,

John Kline

John Kline
Chairman

Chairman Kline

Administration of Temporary Worker Programs

1. The administration of the H-2A and H-2B visa programs by the department during the past several years has been criticized by stakeholders as dysfunctional. There are claims of arbitrary processing delays, unannounced changes in policy and procedure, and outright hostility towards these programs. The courts have challenged the department's legal authority to issue substantive rules under the H-2B program and Congress has stepped in to stop implementation of the department's H-2B wage rate methodology. What steps has the department taken to reach out to affected stakeholders in these programs to address these issues? If steps have not been taken, is the department willing to undertake outreach and what approach would be most productive?

2. It is the committee's understanding the department has taken several steps to improve communication between the Employment and Training Administration's Office of Foreign Labor Certification and H-2A and H-2B employers and agents. What additional steps can be taken to promote a more productive dialogue between the agency and stakeholders in order to address issues as they arise in the certification process? Will you commit to implementing those improvements over the next few months?

3. H-2A and H-2B employers have long complained that the department has not processed their applications for labor certifications within the statutory deadlines. Please describe the steps the department is taking to improve processing times and eliminate the processing backlogs that already exist.

Office of Federal Contract Compliance Programs

1. The Office of Federal Contract Compliance Programs' (OFCCP) enforcement efforts under the Obama administration have focused on alleged systemic discrimination in contractors' entry-level hiring. The agency increasingly uses statistical disparities to allege discrimination, which has resulted in settlements that seem to require hiring quotas. For example, a press release posted on OFCCP's website describing a settlement includes allegations of discrimination against "men and women as well as African-American, Caucasian and Native American job seekers, as well as job seekers of Hispanic and Asian descent."[1] It is difficult to understand how the employer's policies or practices were discriminatory against all these groups unless the determination was based on variances between the percentages of applicants and new hires in each group. However, requiring racial or gender balancing is presumptively unconstitutional.[2] So-called racial and gender balancing is also prohibited by Title VII of

[1] News Release, U.S. Department of Labor, Shipping giant FedEx to pay $3 million to settle charges of hiring discrimination brought by US Department of Labor (Mar. 22, 2012), *available at* http://www.dol.gov/opa/media/press/ofccp/OFCCP20120507.htm.

[2] *See, e.g.*, *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003) ("[O]utright racial balancing . . . is patently unconstitutional."); *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 732 (2007) ("Racial balancing is not transformed from 'patently unconstitutional' to a compelling state interest simply by relabeling it

the *Civil Rights Act*.[3] Does the department agree that employer use of racial and gender quotas in hiring is prohibited by Title VII? Does the department agree it would be unconstitutional for OFCCP to require employers to use racial and gender quotas in hiring? Will you instruct OFCCP to take steps to ensure its enforcement efforts do not encourage the use of hiring quotas?

2. The federal government implements a number of programs supporting the resettlement of refugees from war-torn areas. Many U.S. companies hire new immigrants with refugee status. Non-government organizations and religious organizations work diligently with government agencies to place refugees with willing employers across the country. As employers seek to avoid non-compliance determinations by OFCCP, does the agency's use of a statistical methodology in determining compliance harm the ability to place, and employers' willingness to hire, refugees? If not, why not?

3. One of two ways a contractor can comply with OFCCP's new regulation concerning employment of protected veterans is to establish a benchmark based on the national percentage of total veterans in the civilian workforce, which is currently eight percent. The percentage of protected veterans under the *Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)* in the civilian labor force, however, is significantly less than 8 percent. During her December 2013 testimony before the Workforce Protections Subcommittee, Director Shiu was unable to say how many protected veterans are in the civilian labor force and what percentage of the civilian labor force they constitute. What is the current national percentage of protected veterans in the civilian labor force? If it is less than 8 percent, or if the percentage is unknown, please explain how the department took this into account before issuing the VEVRAA rule, including why the national percentage of total veterans in the civilian workforce was chosen as the benchmark.

4. The dollar threshold amount of the contract that triggers various federal contractor obligations under OFCCP has not been raised since 1978. Has OFCCP considered increasing the dollar threshold to account for inflation? If not, why not? If yes, why did OFCCP decide not to increase the dollar threshold?

5. In January 2009, President Obama pledged that his administration would create "an unprecedented level of openness in Government" and work to ensure "transparency, public participation, and collaboration."[4] Many federal contractors, however, have expressed concern about an increased lack of transparency and collaboration with OFCCP, an unwillingness to share findings in compliance reviews, a regulatory agenda that does not solicit or listen to the concerns of the stakeholder community, and an increasingly intimidating stance toward employers. For example, OFCCP recently published Directive 307, Procedures for Reviewing Contractor Compensation Systems and Practices, without public input or review. The directive is vague and has left

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'racial diversity.'"); *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 724 (1982) (discriminating on the basis of sex requires an "exceedingly persuasive justification") (quotation marks omitted).

[3] *See Ricci v. DeStefano*, 557 U.S. 557 (2009).

[4] Memorandum for the Heads of Executive Departments and Agencies (Jan. 21, 2009), *available at* http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m09-12.pdf.

employers unsure how to conduct critical analyses of their compensation systems. What is the department doing to ensure is abides by the president's promise of openness, transparency, and collaboration?

6. There is a lack of understanding about how OFCCP selects contractors for auditing. What are the criteria for selecting contractors for audits?

7. OFCCP had on its Fall 2013 regulatory agenda the "Compensation Data Collection Tool." On August 15, 2012, the National Academy of Sciences (NAS) issued a study entitled, "Measuring and Collecting Pay Information from U.S. Employers by Gender, Race, and National Origin."[5] The study determined that federal agencies should refrain from collecting compensation data until there is a clearly articulated, comprehensive plan in place regarding how such data will be used.[6] The study also concluded:

   > "Existing studies of the cost-effectiveness of an instrument for collecting wage data and the resulting burden are inadequate to assess any new program. Unless the agencies have a comprehensive plan that includes the form of the data collection, it will not be possible to determine, with precision, the actual burden on employers and the probable costs and benefits of the collection."[7]

   Before issuing a proposed rule on the "Compensation Data Collection Tool," will OFCCP develop a clearly articulated, comprehensive plan for how the data will be used and determine the burden and costs to employers?

Wage and Hour Division

1. One long-term action listed on the regulatory agenda is the "Right to Know Under the *Fair Labor Standards Act*" rulemaking, which would expand current employer recordkeeping requirements. The anticipated rulemaking has been on the department's regulatory agenda since 2010, causing a great deal of uncertainty. Please outline the process for developing this rule, including the stakeholder outreach the department has conducted.

2. The president's February 12, 2014, Executive Order "Establishing a Minimum Wage for Contractors," raises several issues. It directs the promulgation of regulations by October 1, 2014 to implement the provisions of the order. Please tell the committee when the department will publish the proposed regulation.

   The executive order states that workers under contracts covered by the *Service Contract Act* and the *Davis-Bacon Act* will be subject to this new minimum wage, along with the

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[5] Panel on Measuring and Collecting Pay Information from U.S. Employers by Gender, Race, and National Origin; Committee on National Statistics; Division on Behavioral and Social Sciences and Education; National Research Council of the National Academies, Collecting Compensation Data from Employees, *available at* http://www.nap.edu/catalog.php?record_id=13496.
[6] *Id. at 2.*
[7] *Id.*

indexing and tip credit provisions. As you know, both the *Service Contract Act* and the *Davis-Bacon Act* speak in terms of "locally prevailing wages" for the wage levels to be paid to covered workers. Is the president now declaring that $10.10, plus any future indexing, will be the new "locally prevailing wage" for the purposes of the *Service Contract Act* and *Davis-Bacon Act*? If so, how does a randomly selected wage level set by the federal government comport with the long-standing concept of "locally prevailing wage"?

The Wage and Hour Division will be undertaking this rulemaking at the same time it updates the overtime regulations. Yet, the requested increases in funding for the Wage and Hour Division are all targeted for enforcement activities, not regulatory initiatives. Please provide the committee with WHD's plans – including an estimate of the number of hours to complete, the number of employees WHD plans to use, the percentage of WHD's budget used for writing regulatory initiatives, and any transfers and reprogrammings of funds to WHD for its regulatory efforts to conduct these two major rulemaking simultaneously.

Health Care

1. The committee has requested information about the administration's regulatory efforts concerning Taft-Hartley health insurance plans and the *Patient Protection and Affordable Care Act*. The committee requested information pertaining to the department's future consideration of special treatment for Taft-Hartley plans, not available to other plans, including employer-sponsored group health plans. While the department has responded "there is no such treatment," it failed to address the question of whether the department is considering *future* special treatment for Taft-Hartley plans. In order provide a complete response for the record, has the Department of Labor previously considered, or is the department currently considering, any form of special treatment for Taft-Hartley plans, including, but not limited to, monetary, regulatory, or compliance relief from the health care law?

Occupational Safety and Health Administration

1. OSHA has spent much of its time and resources since 2010 writing regulations to implement an Injury and Illness Prevention Program (I2P2). While the department's FY 2015 budget justification indicates work will continue on this regulation, your testimony made no mention of it. The committee understands that OSHA sent the proposed I2P2 regulation to the Small Business Administration (SBA) on January 6, 2012, for consideration under the *Small Business Regulatory Enforcement Fairness Act*. However, not long after its submission, OSHA withdrew the regulation. Please explain why the proposal was withdrawn from SBA consideration. Has an I2P2 proposed regulation been submitted again to SBA for its consideration? If not, please notify the committee when it is resubmitted to SBA for its consideration.

2. In a November 21, 2013 staff briefing, OSHA suggested the current Occupational Data Initiative (ODI) captures 33,000 pieces of data. However, the committee understands

that if OSHA's 2013 proposed injury and illness recordkeeping regulation is implemented, the amount of captured data could increase to almost one million data points. It is also our understanding ODI will be replaced as a result of this new regulation. Please explain how this new system is expected to operate.

Workers Compensation Programs

1. Committee staff recently met with the department's Division of Coal Mine Workers' Compensation to better understand its new pilot program, which was initiated to improve quality and timeliness of processing claims filed by coal miners and their survivors under the Black Lung Benefits Program. The pilot program is intended to address some of the concerns raised in the reports by ABC and the Center for Public Integrity by modernizing archaic processes and improving program efficiency. What other short term and long term improvements is the department making to workers' compensation programs to protect the interests of injured workers and their families? Are new protections being implemented to ensure the continuing sustainability of these benefit programs?

Representative Roe

1. On March 19, 2014, you received a letter from 14 state attorneys general requesting that you withdraw the "persuader" regulation. These state law enforcement leaders are concerned that "this proposed rule will have a chilling effect on the attorney-client privilege and employers' fundamental right to counsel," an opinion that is shared by the American Bar Association and thousands of commenters. Have the department discussed the rulemaking with these attorneys general? What has the department done to ensure the "persuader" rule does not chill the attorney-client privilege?

Representative Walberg

1. According to OSHA, its proposed rule to reduce the permissible exposure limit (PEL) to silica will affect 2.2 million jobs and more than 500,000 workplaces. The U.S. Chamber of Commerce estimates that the rule will cost up to $6 billion, if adopted. In promulgating the PEL reduction, OSHA contended that occupational related silica disease is not decreasing because of the "difficulty in recognizing occupational illnesses that have long latency periods, like silicosis, contributes to under-recognition and underreporting by health care providers." However, data from the Centers for Disease Control (CDC) demonstrates a steady downward trend of silicosis related deaths. How does the agency justify using a statistical analysis that is contrary to CDC data?

2. Centers for Disease Control data demonstrates a downward trend of silica cases. However, OSHA's silica regulatory proposal states that 30 percent of silica samples in general industry were above OSHA's current limit.[8] The agency's construction industry sampling demonstrated 25 percent noncompliance.[9] These figures suggest OSHA is experiencing difficulties enforcing the current exposure limit. Why

[8] 78 FR 56294, September 12, 2014.
[9] Data for both measurements was gathered between 2003 and 2009.

does OSHA believe adoption of a lower permissible exposure is the solution rather than increased compliance with the current PEL?

3. When OSHA published its proposed rule on occupational exposure to crystalline silica in the *Federal Register*, OSHA suggested it will not change its "hierarchy of controls" policy that requires companies to experiment with engineering controls before personal protective equipment (PPE) – like clean air helmets and new improved respirators – to count as compliance. Since that policy is not in the *Occupational Safety and Health Act*, why is OSHA not permitting compliance with new, more effective PPE for short-term work sites, like construction and hydraulic fracturing, where engineering controls are difficult given changing outdoor conditions and job tasks?

4. Why has OSHA alleged that compliance with its new silica limits are feasible for the nation's modern hydraulic fracturing industry, by comparing that industry with primitive stone quarries in India and Iran and suggesting our fracturing industry uses the same controls as these sites?

5. OSHA submitted a rulemaking on occupational exposure to crystalline silica for economic review under the *Small Business Regulatory Enforcement Act* (SBREFA) eleven years ago. The economic data used for this review are now outdated and do not cover the economically critical hydraulic fracturing industry. Before proceeding to its final rulemaking, does OSHA plan to conduct an updated SBREFA review?

Representative Rokita

1. On October 1, 2013, the department published a final rule in the *Federal Register* eliminating the *Fair Labor Standards Act*'s (FLSA) minimum wage and overtime exemption for home care workers employed by home care agencies and other companies. The new regulations also significantly narrow the exemption for home care workers employed directly by the individuals or families receiving home care services. As you know, these changes will become effective on January 1, 2015.

   According to the department's notice in the *Federal Register*, "The Department will work closely with stakeholders and the Department of Health and Human Services to provide additional guidance and technical assistance during the period before the rule becomes effective, in order to ensure a transition that minimizes potential disruption in services and supports the progress that has allowed elderly people and persons with disabilities to remain in their homes and participate in their communities."

   While the department's FY 2015 Congressional Justification generally mentions providing compliance assistance to employers, the vast majority of the Wage and Hour Division's time and resources appear to be dedicated to enforcement. How does the focus of the Wage and Hour Division's resources on advancing its strategic enforcement strategies fulfill its commitment to "provide additional guidance and technical assistance" to those stakeholders impacted by the companion care rule? What assistance, specifically,

are you planning to provide to the home care industry as they prepare to reclassify almost their entire workforce?

Ranking Member Miller

1. During the hearing, an assertion was made that the Mine Safety and Health Administration failed to conduct rulemaking hearings on a proposed respirable dust rule in coal production areas, and that these hearings "were in more urban areas unrelated to the coal industry." How many hearings were held on this proposed rule, where were these held, and what percentage were held in areas proximate to the coal fields?

2. The President's budget request for FY 2015 increases funding by $2.9 million for the Office of Administrative Law Judges (OALJ) compared with FY 2014 (a 12% increase). Even with this increase, the case backlog is projected to grow by 10 percent to 14,806 cases compared with 13,488 cases at the end of year FY 2014.

    a. The President's request indicates the average black lung benefits case will take 42 months in FY 2014, up from 34 months in FY 2013. What has cause the increase in delays?

    b. Is it the case that it takes an average of 429 days to assign a black lung case to an Administrative Law Judge (ALJ)? Why does it take so long just to assign a case? Are there an insufficient number of ALJs?

    c. Does the Department have a backlog reduction plan for the Office of Administrative Law Judges?

    d. If so, what does this backlog reduction plan provide in terms of number of additional ALJs and years of work to eliminate the case backlog?

Representative Polis

1. White House Press Secretary Jay Carney has repeatedly said that the President believes the *Employment Non-Discrimination Act* (ENDA) would be a "durable solution" and that Congress should act. I think all of the signers of the Congressional letters agree that passage of ENDA is critically important. My Senate colleagues have acted on a strong bipartisan basis with ten Republican Senators joining every Democratic Senator in support of ENDA. I hope the House will be given the opportunity to vote on this critical civil rights legislation and I will continue to work to get this to happen. While the President urges Congress to act, he can lead by example with an EO that would protect millions of American workers. Protections for federal workers and for workers employed by contractors has preceded Congressional action before, and indeed helped advance measures in Congress. Given this history, do you personally support an EO?

Representative Pocan

1. Last week, I joined more than 200 members of the House and Senate sent a letter to President Obama renewing our request that he issue an Executive Order banning contractors from receiving federal government contracts unless they have a policy prohibiting discrimination on the basis of sexual orientation and gender identity. According to multiple media reports, which have never been disputed by the White House or Department of Labor, the Department has completed its preparatory work and that decision-making now rests with the White House. Understanding that the Department would play a critical role in implementing any EO, are there any additional actions that the Department is taking or could take to prepare for an executive order?

[Secretary Perez's response to questions submitted for the record follows:]

U.S House of Representatives
Committee on Education and the Workforce
Hearing on "Reviewing the President's Fiscal Year 2015 Budget Proposal for the U.S. Department of Labor"
Questions for the Record

Chairman Kline

Administration of Temporary Worker Programs

1. The administration of the H-2A and H-2B visa programs by the department during the past several years has been criticized by stakeholders as dysfunctional. There are claims of arbitrary processing delays, unannounced changes in policy and procedure, and outright hostility towards these programs. The courts have challenged the department's legal authority to issue substantive rules under the H-2B program and Congress has stepped in to stop implementation of the department's H-2B wage rate methodology. What steps has the department taken to reach out to affected stakeholders in these programs to address these issues? If steps have not been taken, is the department willing to undertake outreach and what approach would be most productive?

Response: The Department has engaged in several activities to ensure that employers understand the requirements of the H-2A and the H-2B programs. The Employment and Training Administration's Office of Foreign Labor Certification (OFLC) meets quarterly with the regulated community, which includes representatives of both H-2A and H-2B employers, and answers questions and provides technical assistance, as requested. With regard to the H-2A program, the Department has held webinars for employers, issued an H-2A employers' handbook, established an H-2A ombudsman program, and has fully implemented a new electronic filing and application processing system. Because of these and other efforts, less than 3 percent of all H-2A applications are denied. Approximately 91 percent of applications in FY 14 YTD have been adjudicated within the statutory requirement of within 30 days of the employer's start date of need.

The last major regulatory change to the H-2A program was in 2010. However, the H-2B program, which governs the certification of the employment of nonimmigrant workers in temporary or seasonal non-agricultural employment and the enforcement of the obligations applicable to employers of such nonimmigrant workers, has been affected significantly by federal court decisions and Congressional riders. First, Congress prohibited implementation of final regulations published in January 2011 (76 F.R. 3452) that established a methodology to set the prevailing wage in the H-2B program, requiring the Department to revert to the predecessor (2008) rule in order to continue H-2B labor certifications. Separately, following a court order, the Department published a new wage rule in 2013 that revised the former 2008 wage provisions of the H-2B regulations. 78 F.R. 24047. Finally, in 2012, the U.S. Court of Appeals for the Eleventh Circuit upheld an injunction against the Department that prevented it from implementing the comprehensive (non-wage) provisions of the regulations published that year. 77 F.R. 11038. The Eleventh Circuit's decision concluded that plaintiffs were likely to prevail in their assertion that the Department was without regulatory authority to promulgate rules in the H-2B program. However, the Eleventh Circuit decision conflicts with a decision by the U.S. Court

of Appeals for the Third Circuit, which concluded that the Department has authority to issue regulations in the H-2B program.

These actions have required the Department to rely, in large part, on regulations issued in 2008 and the interim final wage rule issued on April 24, 2013, which remains in effect. Despite the procedural difficulties posed by the legislative and judicial actions, the Department has continued to process applications promptly; our performance data indicates that approximately 97.4 percent of H-2B applications have been processed within the Department's internal goal of 30 days thus far in FY 2014. OFLC has also implemented a complete electronic application filing and case processing system for the H-2B program. The office's Ombudsman program routinely emails a large H-2B stakeholder list items of interest to that community.

The Department has communicated with stakeholders about the regulatory effects resulting from the legislation and judicial orders. On March 14, 2014, the Department announced its decision to engage in further notice and comment rulemaking to establish a methodology to set the prevailing wage in the H-2B program. The Department is developing a notice of proposed rulemaking. Once the proposed rule is published in the Federal Register, stakeholders, along with other members of the public, will be given the opportunity to comment on the proposed rule. These comments, as well as those submitted in connection with the interim final rule, will inform the Department in the development of a final rule.

If this Committee has additional ideas as to how we can further communicate with stakeholders, we would gladly try to incorporate those into our existing outreach efforts.

2. It is the committee's understanding the department has taken several steps to improve communication between the Employment and Training Administration's Office of Foreign Labor Certification and H-2A and H-2B employers and agents. What additional steps can be taken to promote a more productive dialogue between the agency and stakeholders in order to address issues as they arise in the certification process? Will you commit to implementing those improvements over the next few months?

Response: As previously stated, the Department has engaged in several substantial outreach activities to ensure that employers understand the requirements of the H-2A and the H-2B programs. With regard to the H-2A program, the Department has held webinars for employers, issued an H-2A employers' handbook, established an H-2A ombudsman program, and has made operational a fully electronic application filing and case processing system for H-2A applications. OFLC meets quarterly with the regulated community, which includes representatives of both H-2A and H-2B employers, and answers questions and provides technical assistance, as requested. In addition, the OFLC speaks at conferences where employers from both programs attend and have access to national office staff for questions and expressing any concerns they may wish to share. We welcome ideas and suggestions from the Committee about how we can better communicate with the H-2A and H-2B stakeholders.

3. H-2A and H-2B employers have long complained that the department has not processed their applications for labor certifications within the statutory deadlines. Please describe the steps the department is taking to improve processing times and eliminate the processing backlogs that already exist.

Response: The only recent period during which the Department faced a significant backlog in this program occurred in 2013 after the Department was closed for over two weeks due to the government shutdown. Overall, in FY 2014, year-to-date results show that approximately 91 percent of H-2A complete applications have been processed within regulatory and statutory time requirements, and approximately 97 percent of H-2B certification applications have been processed within the Department's internal goal of 30 days. While these year-to-date results reflect the impact of events early in FY 2014, results for the third quarter show that OFLC is exceeding its timeliness goals for the processing of applications for both programs. To further improve the processing of applications, the Department, among other things, has published Frequently Asked Questions on the Department's website that explain processing requirements so that applicants are better able to complete the application without errors and to provide the information needed to process the application in accordance with required processing times. The Department also has encouraged the employer community to file applications electronically as doing so speeds up the application process. The Department welcomes specific suggestions from the Committee or the employer community about how to further improve the processing of applications.

Office of Federal Contract Compliance Programs

1. The Office of Federal Contract Compliance Programs' (OFCCP) enforcement efforts under the Obama administration have focused on alleged systemic discrimination in contractors' entry-level hiring. The agency increasingly uses statistical disparities to allege discrimination, which has resulted in settlements that seem to require hiring quotas. For example, a press release posted on OFCCP's website describing a settlement includes allegations of discrimination against "men and women as well as African-American, Caucasian and Native American job seekers, as well as job seekers of Hispanic and Asian descent." It is difficult to understand how the employer's policies or practices were discriminatory against all these groups unless the determination was based on variances between the percentages of applicants and new hires in each group. However, requiring racial or gender balancing is presumptively unconstitutional? So-called racial and gender balancing is also prohibited by Title VII of the Civil Rights Act. Does the department agree that employer use of racial and gender quotas in hiring is prohibited by Title VII? Does the department agree it would be unconstitutional for OFCCP to require employers to use racial and gender quotas in hiring? Will you instruct OFCCP to take steps to ensure its enforcement efforts do not encourage the use of hiring quotas?

Response: OFCCP regulations neither require nor enforce hiring quotas. In the specific case mentioned here, OFCCP thoroughly investigated the contractor's hiring practices across multiple locations – an investigation that included not only statistical analysis but also document review, manager interviews, and worker interviews – and determined that a flawed hiring process for the positions at issue existed at many of these locations. The hiring process screened out different groups at the different locations on the basis of race or gender in various discriminatory ways. As a result, the company agreed to provide job offers to a subset of the unfairly rejected job seekers, and to completely revise its hiring process for the positions at issue.

2. The federal government implements a number of programs supporting the resettlement of refugees from war-torn areas. Many U.S. companies hire new immigrants with refugee

status. Non-government organizations and religious organizations work diligently with government agencies to place refugees with willing employers across the country. As employers seek to avoid non-compliance determinations by OFCCP, does the agency's use of a statistical methodology in determining compliance harm the ability to place, and employers' willingness to hire, refugees? If not, why not?

Response: OFCCP analyzes the full range of available evidence in conducting a compliance review of an employer's hiring practices, and does not employ a "statistics-only methodology." Contractors may indeed choose to support refugee resettlement but must do so without discriminating against any other workers based on race, sex or other protected categories.

3. One of two ways a contractor can comply with OFCCP's new regulation concerning employment of protected veterans is to establish a benchmark based on the national percentage of total veterans in the civilian workforce, which is currently eight percent. The percentage of protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) in the civilian labor force, however, is significantly less than 8 percent. During her December 2013 testimony before the Workforce Protections Subcommittee, Director Shiu was unable to say how many protected veterans are in the civilian labor force and what percentage of the civilian labor force they constitute. What is the current national percentage of protected veterans in the civilian labor force? If it is less than 8 percent, or if the percentage is unknown, please explain how the department took this into account before issuing the VEVRAA rule, including why the national percentage of total veterans in the civilian workforce was chosen as the benchmark.

Response: OFCCP's new regulations implementing VEVRAA require that each contractor that is required to develop a written affirmative action program (AAP) also establish an annual hiring benchmark. This benchmark provides contractors with a yardstick against which they can assess the effectiveness of their efforts to recruit and employ protected veterans.

The VEVRAA regulations give contractors options for establishing the benchmark. Federal contractors may use either the national percentage of veterans in the civilian labor force as their benchmark or create their own benchmark using several possible data sources and factors. Currently, the national average is 7.2 percent[1]. As OFCCP explained in the preamble to the VEVRAA Final Rule, currently there is no available data source that captures just those veterans in the civilian labor force who are protected by VEVRAA[2]. OFCCP recognizes that this national data is broader than the subset of veterans who are protected by VEVRAA. However, the benchmark is merely a tool for contractors to use in the evaluation of their outreach and recruitment activities, and there is no penalty or violation for failing to meet it.

4. The dollar threshold amount of the contract that triggers various federal contractor obligations under OFCCP has not been raised since 1978. Has OFCCP considered increasing the dollar threshold to account for inflation? If not, why not? If yes, why did OFCCP decide not to increase the dollar threshold?

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[1] Table 1. Employment status of persons by veteran status, age, race, Hispanic or Latino ethnicity, and sex, Annual Average 2013, not seasonally adjusted (Source: Current Population Survey), (Bureau of Labor Statistics).
[2] VEVRAA protects the following categories of veterans: 1) recently separated veterans; 2) disabled veterans; 3) active duty wartime or campaign badge veterans; and 4) Armed Forces service medal veterans.

Response: The threshold amounts for two of the laws administered by OFCCP, Section 503 of the Rehabilitation Act (Section 503) and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), are mandated by statute. However, as a result of a procurement law passed in 2004, the Federal Acquisition Regulation (FAR) includes an inflation adjustment for procurement related dollar thresholds that are created by statute. The adjustment, therefore, currently applies to OFCCP's contract threshold amounts for Section 503 and VEVRAA. The inflationary adjustment does not apply to the contract value threshold for Executive Order 11246.

5. In January 2009, President Obama pledged that his administration would create "an unprecedented level of openness in Government" and work to ensure "transparency, public participation, and collaboration." Many federal contractors, however, have expressed concern about an increased lack of transparency and collaboration with OFCCP, an unwillingness to share findings in compliance reviews, a regulatory agenda that does not solicit or listen to the concerns of the stakeholder community, and an increasingly intimidating stance toward employers. For example, OFCCP recently published Directive 307, Procedures for Reviewing Contractor Compensation Systems and Practices, without public input or review. The directive is vague and has left employers unsure how to conduct critical analyses of their compensation systems. What is the department doing to ensure is abides by the president's promise of openness, transparency, and collaboration?

Response: OFCCP has a strong record of carrying out the President's pledge to ensure transparency, public participation, and collaboration. Recently, former Governor and Secretary of Homeland Security Tom Ridge described OFCCP's rule-making process for the 503 regulation as "a model for how government can work with stakeholders in crafting regulations that are practical and effective" (October 2, 2013). To inform the development of the revised Section 503 regulations, OFCCP employed an open, transparent, and inclusive process in order to maximize opportunities for all interested parties to participate. It included the issuance of an Advance Notice of Proposed Rulemaking, in July 2010, soliciting public comment on specific ways to strengthen the Section 503 affirmative action provisions, which drew more than 125 comments from a broad spectrum of stakeholders, including trade and professional associations, disability and veteran advocacy organizations, contractors, federal, state and local government agencies, and private citizens. OFCCP also conducted several public forums designed to reach out to as many stakeholders across the nation as possible to obtain valuable input for the development of the regulations. In addition, OFCCP extended the 60-day period for public comment on the Notice of the Proposed Rulemaking (NPRM), and received more than 400 comments from an equally broad spectrum of interested groups and individuals. These efforts provided OFCCP with information for improving both the regulations and their burden analysis, leading to the issuance of streamlined final rules that minimize the burden on contractors, and an improved burden analysis utilizing cost ranges incorporating cost estimates suggested by commenters. Following finalizing both rules, and continuing through to today, OFCCP is working with its stakeholders to educate them about the new requirements, provide information about relevant resources, and facilitate their successful implementation of the regulations by providing contractors access to various means of support.

Directive 2013-03 (previously referred to as Directive 307), implemented the agency's Notice of Rescission of 2006 Compensation Standards and Voluntary Guidelines. Under the prior

guidance, OFCCP applied a narrow approach to evaluating contractor pay practices, regardless of the industry, types of jobs, issues presented, characteristics of workers, or available data. Further, under this guidance, OFCCP only considered certain kinds of evidence in virtually all systemic compensation cases. These restrictions limited OFCCP's ability to detect evidence of illegal pay discrimination. The 2006 guidance was rescinded after receiving public comment on the Notice of Rescission that was published in the Federal Register. Thereafter, OFCCP issued new guidance for employers and other interested stakeholders that set forth the procedures, analysis, and protocols OFCCP will utilize when conducting compensation discrimination investigations going forward. This guidance was Directive 2013-03, which was issued, in part, in response to requests from the contractor community. OFCCP supplemented the new guidance with FAQs, technical assistance, webinars, and other resources and materials to ensure contractors have ample information about how to comply with the law. The FAQs and other material are available on the OFCCP website.[3]

6. There is a lack of understanding about how OFCCP selects contractors for auditing. What are the criteria for selecting contractors for audits?

Response: OFCCP's Federal Contractor Selection System (FCSS) is a neutral selection system that identifies federal contractor establishments for compliance evaluations. The FCSS process uses multiple information sources such as federal acquisition and procurement databases, EEO-1 employer information reports, Dun & Bradstreet (D&B) data, Census data, and statistical thresholds such as industry type and employee counts of federal contractor establishments.

The process, data sources, and factors used to develop the scheduling list may vary from list to list. Currently, the starting point for all lists is the Federal Procurement Data System – Next Generation (FPDS). The FPDS is compiled and maintained by the U.S. General Services Administration and captures all federal contract transactions. OFCCP evaluates the individual transactions from which it develops a list of active contracts and identifies the contractors associated with each contract that fall under the agency's jurisdiction. OFCCP uses such data sources as EEO-1 and D&B data to identify the corporate parent and/or affiliated establishments of the covered contractors identified through FPDS. The EEO-1 and D&B data also may be used to confirm the address and employee count at each establishment.

The list is further refined by applying a number of neutral factors such as contract expiration date, contract value, and pre-defined operational limits on the number of establishments per contractor that may be scheduled in any one cycle. Establishments covered by Functional Affirmative Action Plan (FAAP) agreements, currently under review, reviewed within the prior twenty-four months, subject to current conciliation agreements or consent decrees, or waiting for scheduling from the prior list are also removed.

Lastly, OFCCP determines the total number of establishments to be reviewed. The total number of establishments reviewed is based on OFCCP region and district office staffing levels of full time employees (FTE).

[3] Compensation FAQs are available at http://www.dol.gov/ofccp/CompGuidance, while facts sheets and other resources are at https://www.dol.gov/ofccp/regs/compliance/CompGuidance/index.htm.

The final scheduling list for each district office is sorted using any one of a number of neutral factors including, but not limited to, alphabetical order, employee count at the establishment, contract value or contract expiration date. The first and every 25th establishment on each district office list are marked for a quality review per the Active Case Enforcement Directive. OFCCP also schedules other types of compliance reviews, such as FAAP reviews, individual or class complaint investigations, directed reviews initiated by OFCCP's National Office based on reports of an alleged violation, pre-award evaluations in response to requests for pre-award clearance from federal contracting officers, and the monitoring of conciliation agreements and consent decrees.

OFCCP has increased the transparency of its selection system by posting extensive FAQs on its website at http://www.dol.gov/ofccp/regs/compliance/faqs/fcssfaqs.htm.

7. OFCCP had on its Fall 2013 regulatory agenda the "Compensation Data Collection Tool." On August 15, 2012, the National Academy of Sciences (NAS) issued a study entitled, "Measuring and Collecting Pay Information from U.S. Employers by Gender, Race, and National Origin." The study determined that federal agencies should refrain from collecting compensation data until there is a clearly articulated, comprehensive plan in place regarding how such data will be used. The study also concluded:

   > "Existing studies of the cost-effectiveness of an instrument for collecting wage data and the resulting burden are inadequate to assess any new program. Unless the agencies have a comprehensive plan that includes the form of the data collection, it will not be possible to determine, with precision, the actual burden on employers and the probable costs and benefits of the collection."

   Before issuing a proposed rule on the "Compensation Data Collection Tool," will OFCCP develop a clearly articulated, comprehensive plan for how the data will be used and determine the burden and costs to employers?

Response: On April 8, 2014, President Barack Obama issued a Presidential Memorandum directing the Department to develop a compensation data collection proposal that would: (1) maximize efficiency and effectiveness by enabling DOL to direct its enforcement resources toward entities for which reported data suggest potential discrepancies in worker compensation, and not toward entities for which there is no evidence of potential pay violations; (2) minimize, to the extent feasible, the burden on Federal contractors and subcontractors, and in particular small entities, including small businesses and small nonprofit organizations; and (3) use the data collected to encourage greater voluntary compliance by employers with Federal pay laws and to identify and analyze industry trends.[4] The Memorandum also encouraged the Department to develop a proposal that relies on existing reporting requirements and frameworks to the extent feasible, and to consider available independent studies regarding the collection of compensation data. On August 8, 2014, DOL published a Notice of Proposed Rulemaking implementing this

[4] Presidential Documents, Memorandum of April 8, 2014, "Advancing Pay Equality through Compensation Data Collection," Memorandum for the Secretary of Labor, April 11, 2014 (79 FR 20751).

Presidential Memorandum and seeking public comment on DOL's specific proposals for collecting compensation data.[5] The public comment period closes on November 6, 2014.

Wage and Hour Division

1. One long-term action listed on the regulatory agenda is the "Right to Know Under the Fair Labor Standards Act" rulemaking, which would expand current employer recordkeeping requirements. The anticipated rulemaking has been on the department's regulatory agenda since 2010, causing a great deal of uncertainty. Please outline the process for developing this rule, including the stakeholder outreach the department has conducted.

Response: The Department's regulatory agenda for Spring 2014 provides a listing of all the regulations the Department expects to have under consideration during the coming one-year period. See http://www.dol.gov/regulations/DOL-2014-0003-0001. Among the items included in the Department's regulatory agenda is a proposal to revise the recordkeeping regulation under the Fair Labor Standards Act to enhance the transparency and disclosure to workers of their status as an employee or some other status, such as an independent contractor, and if an employee, how their pay is computed. This is also known as the "Right to Know" rule, and information regarding this rulemaking is available at http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=1235-AA04.

The Department regards this regulatory item as a long-term action, and we currently do not have any planned activity on this regulation.

2. The president's February 12, 2014, Executive Order "Establishing a Minimum Wage for Contractors," raises several issues. It directs the promulgation of regulations by October 1, 2014 to implement the provisions of the order. Please tell the committee when the department will publish the proposed regulation.

   The executive order states that workers under contracts covered by the Service Contract Act and the Davis-Bacon Act will be subject to this new minimum wage, along with the indexing and tip credit provisions. As you know, both the Service Contract Act and the Davis-Bacon Act speak in terms of "locally prevailing wages" for the wage levels to be paid to covered workers. Is the president now declaring that $10.10, plus any future indexing, will be the new "locally prevailing wage" for the purposes of the Service Contract Act and Davis-Bacon Act? If so, how does a randomly selected wage level set by the federal government comport with the long-standing concept of "locally prevailing wage"?

   The Wage and Hour Division will be undertaking this rulemaking at the same time it updates the overtime regulations. Yet, the requested increases in funding for the Wage and Hour Division are all targeted for enforcement activities, not regulatory initiatives. Please provide the committee with WHD's plans - including an estimate of the number of hours to complete, the number of employees WHD plans to use, the percentage of WHD's budget used for writing regulatory initiatives, and any transfers and

[5] The NPRM, published at 79 FR 46562, discusses the National Academies report on pages 46573, 46576 and 46579. (*See* http://www.gpo.gov/fdsys/pkg/FR-2014-08-08/pdf/2014-18557.pdf).

reprogramming of funds to WHD for its regulatory efforts to conduct these two major rulemaking simultaneously.

Response: The Notice of Proposed Rulemaking (NPRM) was published on June 17, 2014 (79 FR 34568) in the Federal Register and interested parties were invited to submit written comments on the proposed rule at www.regulations.gov. On July 8, 2014, the U.S. Department of Labor's Wage and Hour Division published a notice extending the comment period (See 79 FR 38478) to July 28, 2014. The Department received many comments from a variety of interested stakeholders, such as labor organizations; contractors and contractor associations; worker advocates, including advocates for individuals with disabilities; contracting agencies; small businesses; and workers. After carefully considering all timely and relevant comments, the Department published a final rule establishing standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 13658. The Final Rule was published in the Federal Register on October 7, 2014 (79 FR 60634).

Section 1 of Executive Order 13658 sets forth a general position of the Federal Government that increasing the hourly minimum wage paid by Federal contractors to $10.10 will increase efficiency and cost savings for the Federal Government. See 79 FR 9851. The proposed regulation at § 10.1(b) provides that nothing in Executive Order 13658 or the proposed regulations excuse non-compliance with any applicable Federal (i.e., SCA or DBA) or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under Executive Order 13658. The Executive Order minimum wage, therefore, does not replace local prevailing wage rates; it merely sets a base hourly rate below which workers on contracts covered under Executive Order 13658 cannot be paid.

Stated differently, the minimum wage requirements of Executive Order 13658 are separate and distinct legal obligations from the prevailing wage requirements of the SCA and the DBA. If a contract is covered by the SCA or DBA and the wage rate on the applicable SCA or DBA wage determination for the classification of work the worker performs is less than the applicable Executive Order minimum wage, the contractor must pay the Executive Order minimum wage in order to comply with the Executive Order. If, however, the applicable SCA or DBA prevailing wage rate exceeds the Executive Order minimum wage rate, the contractor must pay that prevailing wage rate to the SCA- or DBA- covered worker in order to be in compliance with the SCA or DBA. The Department also notes that the Executive Order does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

With regard to undertaking the Executive Order 13658 rulemaking and updating the overtime regulations applicable to executive, administrative, and professional employees (29 CFR part 541), the two rulemakings are on different timelines. The Department does not anticipate having to make any major adjustments in staffing to conduct the two rulemakings, as work on Executive Order 13658 rulemaking has recently been completed, in time for work on the overtime regulations to begin.

Health Care

1. The committee has requested information about the administration's regulatory efforts concerning Taft-Hartley health insurance plans and the Patient Protection and Affordable

Care Act. The committee requested information pertaining to the department's future consideration of special treatment for Taft-Hartley plans, not available to other plans, including employer-sponsored group health plans. While the department has responded, "there is no such treatment," it failed to address the question of whether the department is considering future special treatment for Taft-Hartley plans. In order to provide a complete response for the record, has the Department of Labor previously considered, or is the department currently considering, any form of special treatment for Taft-Hartley plans, including, but not limited to, monetary, regulatory, or compliance relief from the health care law?

Response: As the Department explained in its March 19, 2014, letter to the Committee, the policy considerations applicable to those employers who contribute to Taft-Hartley plans are broadly applicable to all plan sponsors. Accordingly, if we correctly understand the reference to special treatment to mean offering workers in Taft-Hartley plans more or different options than workers in other types of plans, the answer is there is no such treatment available or actively being considered at this time.

Occupational Safety and Health Administration

1. OSHA has spent much of its time and resources since 2010 writing regulations to implement an Injury and Illness Prevention Program (I2P2). While the department's FY2015 budget justification indicates work will continue on this regulation, your testimony made no mention of it. The committee understands that OSHA sent the proposed I2P2 regulation to the Small Business Administration (SBA) on January 6, 2012, for consideration under the Small Business Regulatory Enforcement Fairness Act. However, not long after its submission, OSHA withdrew the regulation. Please explain why the proposal was withdrawn from SBA consideration. Has an I2P2 proposed regulation been submitted again to SBA for its consideration? If not, please notify the committee when it is resubmitted to SBA for its consideration.

Response: OSHA suspended the SBREFA process while the Agency develops additional regulatory options to present in the SBREFA package. We believe that having these additional regulatory options for consideration will provide a better opportunity for Small Entity Representatives to provide feedback on ways OSHA can meet its safety and health goals while minimizing impacts on small businesses. We will notify the committee when it is resubmitted to the SBREFA panel for its consideration.

2. In a November 21, 2013 staff briefing, OSHA suggested the current Occupational Data Initiative (ODI) captures 33,000 pieces of data. However, the committee understands that if OSHA's 2013 proposed injury and illness recordkeeping regulation is implemented, the amount of captured data could increase to almost one million data points. It is also our understanding ODI will be replaced as a result of this new regulation. Please explain how this new system is expected to operate.

Response: The new system will collect the following data from the OSHA annual summary form (Form 300A, Summary of Work-Related Injuries and Illnesses) from each establishment in the annual survey:

- Number of cases (total number of deaths, total number of cases with days away from work, total number of cases with job transfer or restrictions, and total number of other recordable cases);
- Number of days (total number of days away from work and total number of days of job transfer or restriction);
- Injury and illness types (total numbers of injuries, skin disorders, respiratory conditions, poisonings, hearing loss, and all other illnesses);
- Establishment information (name, street address, industry description, SIC or NAICS code, and employment information (annual average number of employees, total hours worked by all employees last year)).

OSHA's proposed rule on Improving Tracking of Workplace Injuries and Illnesses would replace the ODI with a requirement that establishments that are currently required to keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in certain designated industries to submit electronically the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee on an annual basis. (Over 160,000 unique establishments participated in the ODI.) OSHA estimates that roughly 440,000 establishments would be subject to this part of the proposed rule.

The proposed rule would also require establishments that are required to keep injury and illness records under Part 1904, and had 250 or more employees in the previous calendar year, to electronically submit information from these records to OSHA on a quarterly basis. OSHA estimates that roughly 38,000 establishments with 250 or more employees would be subject to this part of the proposed rule, accounting for roughly 900,000 injury/illness cases per year.

OSHA will provide a secure website for the data collections in the proposed rule. Employers will register their establishments and be assigned a login ID and password. The website will allow for both direct data entry and submission of data through a batch file upload, as appropriate. The electronic submission of information to OSHA will be a relatively simple and quick matter. In most cases, submitting information to OSHA will require several basic steps: 1) logging on to OSHA's web-based submission system; 2) entering basic establishment information into the system; 3) copying the required injury and illness information from the establishment's paper forms into the electronic submission forms; and 4) hitting a button to submit the information to OSHA. In many cases, especially for large establishments, OSHA data are already kept electronically, so step 3, which is likely the most time-intensive, would not be necessary. In those cases, the establishment will be able to submit its electronic information, in the format in which it is kept, to OSHA without having to transfer it into OSHA's online format.

Workers' Compensation Programs

1. Committee staff recently met with the department's Division of Coal Mine Workers' Compensation to better understand its new pilot program, which was initiated to improve quality and timeliness of processing claims filed by coal miners and their survivors under the Black Lung Benefits Program. The pilot program is intended to address some of the

concerns raised in the reports by ABC and the Center for Public Integrity by modernizing archaic processes and improving program efficiency. What other short term and long term improvements is the department making to workers' compensation programs to protect the interests of injured workers and their families? Are new protections being implemented to ensure the continuing sustainability of these benefit programs?

Response: The Department has recently implemented a number of important improvements to federal workers' compensation programs administered by the Office of Workers' Compensation Programs (OWCP). In addition, we have begun work on other improvements.

The Black Lung Benefits Program

- New Regulatory Initiative - In addition to the pilot project, the Department is considering how to address three important issues in a proposed rule: whether all parties involved in a claim must disclose medical evidence they obtain in connection with a claim; the fee schedule used for payment of a miner's medical expenses related to black lung disease; and a liable coal company's responsibility to pay benefits under an effective award while seeking modification of the award. OWCP invited stakeholders to comment on all three rulemaking topics during outreach sessions held in July. As indicated in the Spring 2014 regulatory agenda, the Department anticipates issuing a Notice of Proposed Rulemaking in January 2015.

- Interagency Collaboration - OWCP has begun exploring with the National Institute for Occupational Safety and Health (NIOSH) the feasibility of establishing an inter-agency quality assurance program for certain physicians (B-readers) whose X-ray classifications are submitted and considered in black lung claims adjudications. We have also committed to consult regularly with NIOSH on recurring medical issues raised in claims litigation. If science resolves a particular issue, the Department will consider promulgating a rule to address it.

- Training Initiatives – In August 2014, OWCP launched a new training initiative to further improve the quality of its decisions in black lung claims. We have worked closely with the Solicitor's Office and NIOSH to develop advanced training for Department personnel who adjudicate claims and physicians who examine miners on behalf of the Department. The program will keep staff up-to-date on medical developments relevant to black lung claims.

- Spot Audits - On August 1, 2014, OWCP issued a bulletin establishing a sampling/spot audit process that requires District Directors (DDs) to review a random sample of Proposed Decisions and Orders (PDOs) awarding or denying benefits after lower management reviews have been completed but before the PDO is issued. In addition, 100 percent of cases that include medical evidence diagnosing a preliminary finding that the miner has complicated pneumoconiosis, an advanced form of black lung disease, will be reviewed by the DDs before a PDO is issued. The sample/spot audits will enhance decision quality by addressing whether the decision is thorough, well-reasoned, and consistent with applicable statutes, regulations, and policies.

The Energy Program

- Interagency Collaboration - The Department has been working closely with NIOSH in efforts to improve the consistency of claims processing and protecting claimants' rights. The two agencies' leadership met in May 2014 to discuss ways in which NIOSH may be able may be able to expand the exchange of information about causation and exposure assessments and promote more effective communications with claimants during the different stages of the adjudication.

  OWCP has also been meeting with the Social Security Administration (SSA) over the last two years to improve the process of data sharing. SSA provides OWCP with verification of employment and earnings information, and this can be a time consuming process. Within the last couple of months, OWCP and SSA have reached an agreement that will significantly reduce overall processing time for cases that require employment verification and earnings information for the Division of Energy Employees Occupational Illness Compensation (DEEOIC). A formal agreement between the two agencies was recently signed.

- Spot Audits - In an effort to provide enhanced management of cases approved for medical benefits, OWCP began conducting biannual spot audits of cases involving home health care. OWCP has also been conducting quarterly audits of reports of Contract Medical Consultants (CMCs) to ensure consistency across cases. In an effort to improve upon that process, the DEEOIC is currently creating a team composed of policy analysts and District Office and Final Adjudication Branch (FAB) employees to develop more comprehensive audit criteria.

- Training Initiatives - The DEEOIC will be conducting hands-on training on our Energy Compensation System (ECS) in all of the District and FAB offices in September 2014. The program's Industrial Hygienists recently completed training on exposures and causation for Part E in the Seattle District Office and will continue to conduct this training around the country in FY 2015. OWCP is also planning to conduct comprehensive training for all FAB employees to address how final decisions should be written and to reinforce consistency in the message delivery and explanation to claimants.

- Outreach Activities - Over the last several years OWCP's DEEOIC program has partnered with the DOL Ombudsman for the for the Energy Employees Occupational Illness Compensation Program, NIOSH, the NIOSH Ombudsman, and the Department of Energy (DOE) and its Former Worker Program (FWP) to form the Joint Outreach Taskforce Group (JOTG). Through this collaboration, the JOTG holds annual face-to-face meetings, monthly calls, and several outreach events a year in efforts to continue to inform the public about the program and to answer questions about benefits. The JOTG has developed an online video that is available on each of the agencies' web sites. In the video, leadership from all three involved agencies provides explanations of the various roles each agency plays in the adjudication of claims under the EEOICPA. OWCP also continues to host outreach events targeted for physicians, providers and claimants to provide information about the medical benefits available, how to obtain those benefits, and to answer any questions that may arise.

Longshore Program

- Increased Oversight – The President's FY 2015 Budget Request for OWCP includes an increase of $1,000,000 and 7 FTE for its Defense Base Act (DBA) Oversight and Enforcement function within the Division of Longshore and Harbor Workers' Compensation (DLHWC). This will allow OWCP to collect detailed data and track each case until resolution or permanency has been reached so that the final case outcome can be determined. When the injured worker is entitled to compensation, detailed information will be collected with regard to the timeliness and accuracy of the initial and ongoing payments. If payment delivery is not timely or accurate, staff will investigate the reasons and work with the employer/carrier to identify the root cause of the problem(s) and take corrective action.

- Training Initiatives - In FY 2014 OWCP updated its dispute resolution protocols for the Longshore Program in an effort to reduce the number of days it takes to resolve a dispute between the claimant and the employer/carrier. Policy and procedure documents have been completely revised, and new on-line training modules focusing on informal conferences, a cornerstone of effective dispute resolution, have been provided to the staff.

- Regulatory Initiative - To modernize the program, OWCP is considering revisions to its program regulations that govern the transmission of documents and information. The current regulations unnecessarily restrict the methods by which injured workers, their survivors, employers, insurance carriers, and the DLHWC may communicate, and do not address electronic communication methods. Establishing parameters for electronic communications has become increasingly important as more private individuals and businesses have adopted electronic means as their preferred method of communication. Thus, OWCP is looking at the feasibility of electronic communication options for its stakeholders that are consistent with the statute and compatible with the Department's electronic infrastructure. As indicated in the Spring 2014 regulatory agenda, the Department anticipates issuing a Notice of Proposed Rulemaking in January 2015.

Federal Workers' Compensation

- FECA Program Integrity - A Program Integrity effort was implemented in FY2014 to enable OWCP to conduct accurate and timely improper payment audits and to establish more sophisticated analytics using payment and performance data. OWCP partnered with the DOL OIG to purchase analytical tools that can be used for common purposes. We will be hiring a small group of auditors and data analysts over the next few months and will also begin working with contract analytic expertise to build a framework for improving program integrity by reducing the causes of improper payments and increasing program efforts that lead to successful return to work

Representative Roe

1. On March 19, 2014, you received a letter from 14 state attorneys general requesting that you withdraw the "persuader" regulation. These state law enforcement leaders are concerned that "this proposed rule will have a chilling effect on the attorney-client privilege and employers' fundamental right to counsel," an opinion that is shared by the American Bar Association and thousands of commenters. Have the department discussed

the rulemaking with these attorneys general? What has the department done to ensure the "persuader" rule does not chill the attorney-client privilege?

Response: The Department is currently engaged in the rulemaking process and has not published a final rule. Accordingly, we were unable to address the substance of the rule in our response to the state attorneys general. However, I can assure you that the Department will carefully consider all materials contained in the rulemaking docket before issuing a final rule, including comments filed by the American Bar Association and others, which raised issues involving the attorney-client privilege and employers' right to counsel.

Representative Walberg

1. According to OSHA, its proposed rule to reduce the permissible exposure limit (PEL) to silica will affect 2.2 million jobs and more than 500,000 workplaces. The U.S. Chamber of Commerce estimates that the rule will cost up to $6 billion, if adopted. In promulgating the PEL reduction, OSHA contended that occupational related silica disease is not decreasing because of the "difficulty in recognizing occupational illnesses that have long latency periods, like silicosis, contributes to under-recognition and underreporting by health care providers." However, data from the Centers for Disease Control (CDC) demonstrates a steady downward trend of silicosis related deaths. How does the agency justify using a statistical analysis that is contrary to CDC data?

Response: While the number of acute silicosis cases has declined over the past several decades, the fact remains that, in 2007, more workers died from silicosis than from any of the following events: fires, explosions, contact with overhead power lines, or excavation or trenching cave-ins.[6] Death certificate data shows that there were 123 silicosis-related deaths in the United States in 2007,[7] but most silica-related deaths go undiagnosed. Also, many silica-related deaths are caused by chronic bronchitis, emphysema, lung cancer, and kidney disease or other diseases secondary to silicosis. For these reasons, OSHA is not relying on death certificate data, but, instead, on its evaluation of scientific studies and its risk assessment, both of which were independently peer-reviewed, showing that disease risks remain unacceptably high among exposed workers.

2. Centers for Disease Control data demonstrates a downward trend of silica cases. However, OSHA's silica regulatory proposal states that 30 percent of silica samples in general industry were above OSHA's current limit. The agency's construction industry sampling demonstrated 25 percent noncompliance. These figures suggest OSHA is experiencing difficulties enforcing the current exposure limit. Why does OSHA believe adoption of a lower permissible exposure is the solution rather than increased compliance with the current PEL?

Response: OSHA's peer-reviewed quantitative risk assessment -- based on several scientific studies of exposed workers -- shows that at the current PEL, there are highly significant risks of dying from lung cancer, kidney disease, or silicosis, or other lung diseases. OSHA's current

[6] Bureau of Labor Statistics (2007). Fatal occupational injuries by event or exposure and major private industrial sector, All United States, 2007.
[7] NIOSH (2012). Work-Related Lung Disease (WoRLD) Surveillance System, Silicosis: Number of deaths by sex, race, age, and median age at death, U.S. residents age 15 and over, 1998-2007.

exposure limits for silica are outdated. The exposure limits for construction and maritime are based on an obsolete air sampling and analytical method that dates from the early 20th century and is no longer available from commercial sources (counting particles rather than determining mass in air).

3. When OSHA published its proposed rule on occupational exposure to crystalline silica in the Federal Register, OSHA suggested it will not change its "hierarchy of controls" policy that requires companies to experiment with engineering controls before personal protective equipment (PPE) - like clean air helmets and new improved respirators - to count as compliance. Since that policy is not in the Occupational Safety and Health Act, why is OSHA not permitting compliance with new, more effective PPE for short-term work sites, like construction and hydraulic fracturing, where engineering controls are difficult given changing outdoor conditions and job tasks?

Response: As was described in the preamble to the silica proposal, respirators are not as protective as engineering controls—such as wetting down dust or vacuuming up dust—and they aren't always as practical either. Unless respirators are individually selected for each worker, fitted and periodically refitted, regularly maintained, and filters and other parts replaced as necessary, workers will continue to be exposed to silica. Workers using only respirators would also have to wear more extensive and expensive protection. Even under these conditions, in order to be effective, properly fitted respirators must be consistently and correctly worn by workers. Respirators can also cause respiratory and physical distress and cannot be used by some workers.

Furthermore, respirators only protect the workers who wear them, while engineering controls keep dust from getting into the environment. Without engineering controls, not only would the person doing the work have to wear a respirator, but workers in the vicinity would have to wear respirators as well.

All stakeholders had an opportunity to provide written comments and participate in the public hearings. OSHA will take these comments into consideration as the rulemaking process moves forward.

4. Why has OSHA alleged that compliance with its new silica limits are feasible for the nation's modern hydraulic fracturing industry, by comparing that industry with primitive stone quarries in India and Iran and suggesting our fracturing industry uses the same controls as these sites?

Response: As with every other industry, the fracking industry had the opportunity to submit written comments and appear at a hearing. OSHA carefully considers the concerns expressed by all stakeholders, along with supporting data and other evidence, in developing a final rule. The Occupational Safety and Health Act of 1970 (the OSH Act) mandates that any final rule issued by OSHA must be feasible for affected industries, and must be supported by substantial evidence in the record considered as a whole [29 U.S.C. 655(b)(5); 29 U.S.C. 655(f)]. Accordingly, OSHA will consider the concerns expressed by stakeholders regarding their ability to comply with the proposed rule in developing a final rule.

5. OSHA submitted a rulemaking on occupational exposure to crystalline silica for economic review under the Small Business Regulatory Enforcement Act (SBREFA) eleven years ago. The economic data used for this review are now outdated and do not cover the economically critical hydraulic fracturing industry. Before proceeding to its final rulemaking, does OSHA plan to conduct an updated SBREFA review?

Response: The published Preliminary Initial Regulatory Flexibility Analysis did not use data gathered in 2003. It used the most recent data prior to the time the analysis was submitted to OIRA for review in 2011. OSHA will update this data again in preparing the final rule.

Small entities from all affected industries—including the fracking industry—were invited to provide written comments and to participate in the public hearings on the proposed silica rule; many of them did. We are confident that commenters from industry, including small entities, were able to express their concerns about the recent and current economic conditions under which they are operating during the comment period and public hearings. OSHA will consider all comments and use this information to update all data and make appropriate decisions as the rulemaking process goes forward.

Representative Rokita

1. On October 1, 2013, the department published a final rule in the Federal Register eliminating the Fair Labor Standards Act's (FLSA) minimum wage and overtime exemption for home care workers employed by home care agencies and other companies. The new regulations also significantly narrow the exemption for home care workers employed directly by the individuals or families receiving home care services. As you know, these changes will become effective on January 1, 2015.

   According to the department's notice in the Federal Register, "The Department will work closely with stakeholders and the Department of Health and Human Services to provide additional guidance and technical assistance during the period before the rule becomes effective, in order to ensure a transition that minimizes potential disruption in services and supports the progress that has allowed elderly people and persons with disabilities to remain in their homes and participate in their communities."

   While the department's FY 2015 Congressional Justification generally mentions providing compliance assistance to employers, the vast majority of the Wage and Hour Division's time and resources appear to be dedicated to enforcement. How does the focus of the Wage and Hour Division's resources on advancing its strategic enforcement strategies fulfill its commitment to "provide additional guidance and technical assistance" to those stakeholders impacted by the companion care rule? What assistance, specifically, are you planning to provide to the home care industry as they prepare to reclassify almost their entire workforce?

Response: Since the rule was issued, the Wage and Hour Division has continued to work closely with the Department of Health and Human Services, the Department of Justice, the states, employers, and other stakeholders to implement the rule. To help workers, families, employers, and others learn more about the changes associated with this new Final Rule, the Department

created a webpage specific to the Final Rule (which may be accessed at: http://www.dol.gov/whd/homecare/), with fact sheets, FAQs, interactive web tools and other materials.

The Department has also taken very seriously the questions posed by the regulated community. In response to stakeholders' questions and requests for clarification, the Department has released two Administrator's Interpretations (AIs). The first, published in March 2014, discussed the application of the FLSA to home care services provided through shared living arrangements, including adult foster care and paid roommate situations. The second, published in June 2014, discussed joint employment of home care workers in consumer-directed, Medicaid-funded programs by public entities under the FLSA. In developing these two guidance documents, we worked very closely with stakeholders and looked at states' programs across the country.

Finally, the Department has made it a priority to engage states and stakeholder organizations at every step throughout the process of developing and implementing the Home Care Final Rule. Since announcing the Final Rule in September 2013, the Department has reached thousands of people through over 100 webinars, conference calls, meetings, and presentations, engaging representatives from State governments, associations of State Medicaid and other relevant agencies, consumers, disability and senior citizens' advocates, veterans' organizations, worker representatives, and industry groups, among others. The Department has engaged in outreach to the governments of all 50 States and provided extensive technical assistance as States implement the Rule. The Department continues to stand ready to provide assistance as needed.

Ranking Member Miller

1. During the hearing, an assertion was made that the Mine Safety and Health Administration failed to conduct rulemaking hearings on a proposed respirable dust rule in coal production areas, and that these hearings "were in more urban areas unrelated to the coal industry." How many hearings were held on this proposed rule, where were these held, and what percentage were held in areas proximate to the coal fields?

Response: MSHA held seven public hearings. Six of the seven hearings (86 percent) were held in areas near surface and underground coal mines. The seventh was in the Washington, DC, metropolitan area, where there are also a number of key stakeholders. Hearings were held as follows:

- December 7, 2010 in Beckley, West Virginia
- January 11, 2011 in Evansville, Indiana
- January 13, 2011 in Birmingham, Alabama
- January 25, 2011 in Salt Lake City, Utah
- February 8, 2011 in Washington, Pennsylvania
- February 10, 2011 in Prestonsburg, Kentucky
- February 15, 2011 in Arlington, Virginia

2. The President's budget request for FY 2015 increases funding by $2.9 million for the Office of Administrative Law Judges (OALJ) compared with FY 2014 (a 12% increase). Even with this increase, the case backlog is projected to grow by 10 percent to 14,806 cases compared with 13,488 cases at the end of year FY 2014.

   a. The President's request indicates the average black lung benefits case will take 42 months in FY 2014, up from 34 months in FY 2013. What has cause the increase in delays?

   b. Is it the case that it takes an average of 429 days to assign a black lung case to an Administrative Law Judge (ALJ)? Why does it take so long just to assign a case? Are there an insufficient number of ALJs?

   c. Does the Department have a backlog reduction plan for the Office of Administrative Law Judges?

   d. If so, what does this backlog reduction plan provide in terms of number of additional ALJs and years of work to eliminate the case backlog?

Response: As of the beginning of FY 2005, OALJ had 45 ALJs and 35 law clerks. At present, there are 36 ALJs and 20 law clerks, which is a 20 percent decrease in the number of ALJs in that period, and a 43 percent decrease in the number of law clerks. We are working on replacing those that we have lost, but that process has been hindered by sequestration reductions, which continue for mandatory programs such as the funding for the black lung caseload. The length of time between when a case is first docketed by OALJ and when it is assigned to a judge has increased dramatically during this period, going from an average of 160 days to more than 429 days. Once a case is assigned to a judge, the time from when the case is scheduled for hearing until a decision is issued varies somewhat from case to case, but it adds a minimum of several months to the total time from docketing to disposition.

The number of available judges impacts the time it takes to assign Black Lung cases. All cases are docketed immediately upon receipt and then assigned to either the national office or district offices and shipped. Case assignments in sets of 20 occur every month based on availability of judges, and the oldest cases in the inventory of pending cases are the next assigned to a judge each month.

A "backlog" of cases exists whenever OALJ is receiving more cases of a particular type in a year than it is able to dispose of that year. In the past few years, a significant backlog of cases has developed in both the Black Lung and Permanent Alien Labor Certification (PERM) case areas. We recognized this problem and began to address it in the President's 2015 budget. The budget provides funding for OALJ to hire additional staff to address the backlog. The budget proposes a programmatic increase in OALJ for 10 full-time employees, $2,027,000 in general funds and $693,000 in Black Lung resources. In total, the budget reflects an 11.5 percent increase for OALJ over the FY 2014 budget. This is the largest increase the Department has sought in ten years. The FY 2015 budget also includes a plan for fully replacing the automatic sequester cuts with smarter, better targeted reductions. If allowed to continue, sequestration will further reduce

available Black Lung funding for OALJ's administrative needs. These additional resources would increase OALJ's ability to hear and decide claims more quickly.

The Department is implementing the following actions to address the backlog:

- Bringing back an administrative law judge who had previously retired as a Senior ALJ in the Pittsburgh office, where he will focus predominantly on black lung cases.

- Exploring the use of contract attorneys, who are usually former law clerks, to draft decisions on a fixed cost per case. In the past, this has proved a cost-effective method of reducing decision backlogs.

- Routinely advising represented parties in black lung cases that a decision may be made on the documentary record, without an oral hearing, if all parties agree. Where the parties do agree, OALJ will be able to proceed more quickly to a final disposition of the claim.

- Monitoring the productivity of all administrative law judges with regard to the disposition of cases, and counseling judges who are less productive.

- Continuing to explore using electronic systems for hearings. This could reduce travel costs and conserve valuable administrative law judge time that could be devoted to decision making.

- Developing 10-15 training modules in conjunction with NIOSH to help administrative law judges and staff better understand the medical issues typically presented in black lung claims. This training could speed up the disposition of these claims.

In the event Congress passes the FY 2015 President's Budget, the Department has also committed to do the following:

- Hiring two new administrative law judges for OALJ's Pittsburgh District Office to adjudicate black lung cases predominantly.

- Hiring two new administrative law judges for the National office in Washington. The Washington office has the largest staff of judges and disposes of more black lung claims than any individual district office.

- Hiring a Senior Attorney in each OALJ District Office, instead of relying solely on law clerks who serve two-year terms. A Senior Attorney would develop greater expertise in Black Lung law and thus be able to draft more complex Black Lung decisions for the administrative law judges in those offices. Given the funding issues involved, OALJ is launching this as a pilot program only.

- Using rehired annuitants to form additional Board of Alien Labor Contract Appeals panels to dispose of PERM cases. This will free up administrative law judges to hear and decide more black lung cases.

Representative Polis

1. White House Press Secretary Jay Carney has repeatedly said that the President believes the Employment Non-Discrimination Act (ENDA) would be a "durable solution" and that Congress should act. I think all of the signers of the Congressional letters agree that passage of ENDA is critically important. My Senate colleagues have acted on a strong bipartisan basis with ten Republican Senators joining every Democratic Senator in support of ENDA. I hope the House will be given the opportunity to vote on this critical civil rights legislation and I will continue to work to get this to happen. While the President urges Congress to act, he can lead by example with an EO that would protect millions of American workers. Protections for federal workers and for workers employed by contractors has preceded Congressional action before, and indeed helped advance measures in Congress. Given this history, do you personally support an EO?

Response: On July 21, 2014, the President signed Executive Order 13672, amending Executive Order 11246 to include sexual orientation and gender identity. Executive Order 13672 directs the Department to prepare implementing regulations within 90 days of the signing of the Order. Since 1967, Executive Order 11246 has prohibited federal contractors and subcontractors from discriminating in employment on the bases of sex, race, religion, color, and national origin; Executive Order 13672 adds sexual orientation and gender identity to this list of protected classes.

The Department has undertaken numerous efforts to strengthen protections for LGBT workers. On June 30, 2014, the Department announced it is updating its enforcement protocols and anti-discrimination guidance to clarify that DOL provides the full protection of the federal nondiscrimination laws that it enforces to individuals with claims of gender identity and transgender status discrimination. On August 19, 2014, OFCCP issued Directive 2014-02, Gender Identity and Sex Discrimination. This directive clarifies that under Executive Order 11246, as amended, sex discrimination includes discrimination on the bases of gender identity and transgender status. The Civil Rights Center and the Employment and Training Administration will issue guidance to make clear that discrimination on the basis of transgender status is discrimination based on sex. While the Department has long protected employees from sex-based discrimination, its guidance to workers and employers will explicitly clarify that this includes workers who identify as transgender. The Department will continue to examine its programs to identify additional opportunities to extend the law's full protection against on the bases of gender identity and transgender status.

Representative Pocan

1. Last week, I joined more than 200 members of the House and Senate sent a letter to President Obama renewing our request that he issue an Executive Order banning contractors from receiving federal government contracts unless they have a policy prohibiting discrimination on the basis of sexual orientation and gender identity.

According to multiple media reports, which have never been disputed by the White House or Department of Labor, the Department has completed its preparatory work and that decision-making now rests with the White House. Understanding that the Department would play a critical role in implementing any EO, are there any additional actions that the Department is taking or could take to prepare for an executive order?

Response: Response: On July 21, 2014, the President signed Executive Order 13672, amending Executive Order 11246 to include sexual orientation and gender identity. Executive Order 13672 directs the Department to prepare implementing regulations within 90 days of the signing of the Order. Since 1967, Executive Order 11246 has prohibited federal contractors and subcontractors from discriminating in employment on the bases of sex, race, religion, color, and national origin; Executive Order 13672 adds sexual orientation and gender identity to this list of protected classes.

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[Whereupon, at 12:20 p.m., the committee was adjourned.]

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