

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES
APPROPRIATIONS FOR 2015

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

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**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, EDUCATION, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
2015**

WEDNESDAY, APRIL 2, 2014.

BUDGET HEARING—DEPARTMENT OF LABOR

WITNESS

HON. THOMAS E. PEREZ, SECRETARY, DEPARTMENT OF LABOR

WELCOME SECRETARY PEREZ

Mr. WOMACK. Good morning. The committee will come to order.

It should be noted at the outset that we have a number of members on this subcommittee who are also members of other subcommittees who are having hearings going on simultaneous to this one. So there will be an ebb and flow of Members coming in and out for various timeframes, and we will yield to them in the order that they arrive.

And I am hopeful that the ranking member will be here momentarily so that she can participate also in the early stages of this hearing as we welcome our guest, the Secretary of Labor.

Secretary Perez, welcome to the committee.

Secretary PEREZ. It is an honor to be here, sir.

Mr. WOMACK. Mr. Perez was confirmed as Secretary of the Labor Department last July, and although this is his first budget hearing before the subcommittee, I have no doubt that by now, Mr. Perez knows the programs, the policies, and the priorities reflected in this budget request.

Mr. Perez, thank you for stepping into such a demanding role at such a demanding time. In the midst of an unacceptably slow economic recovery, millions of Americans are still unable to find work. I am sure these last months have been quite a challenge, but I appreciate your role and your attendance here today to discuss the fiscal 2015 budget for the Department of Labor.

I intend to be brief in my remarks. But before I yield to the ranking member, should she arrive, I do have some concerns that I would like to address at the outset of this morning's hearing.

OPENING REMARKS

I believe this must be the most anemic recovery to any recession we have endured in recent memory. According to a report by the Center on Budget and Policy Priorities, now almost 5 years into the

recovery, the economy has replaced only 7.8 million of the 8.7 million jobs lost since the start of the recession in December of '07.

To make matters worse, the labor force participation rate is the lowest level since 1978 and has declined each year since the recession began. The current unemployment rate of 6.7 percent belies the fact that millions of Americans have simply given up looking for work and are no longer counted as part of the labor force.

And yet there are currently over 4 million job openings. These openings go unfulfilled due to a persistent skills gap in this country. Employers tell us that they can't find enough skilled workers for the positions they need to fill. I hear it when I circulate through my district, and I am sure my colleagues hear the same.

The department has spent more than \$35,000,000,000 over the past 10 years in training and employment services. It is clear to me that these job training programs are not working.

It begs the question, why does job creation in this country continue to be so slow? At last week's public witness hearing, it was made clear to me that the regulatory environment, while not the only factor, is certainly a contributing factor.

Businesses are so concerned about many of the regulations pending at the department that they are hesitant to hire new workers. I don't blame them. There is simply no certainty surrounding the regulatory environment in which they will find themselves operating.

Another factor impeding job growth is excessive enforcement. I look at this request and descriptions in the justification material, there is no ambiguity as to where the department's priorities are. Once again, this administration proposes to shift funds from compliance assistance to enforcement.

Enforcement does not create jobs. It has real costs for employers and is especially burdensome for the small businesses we rely on as the biggest drivers of job growth. Excessive enforcement has only created an adversarial relationship between business and the Federal Government.

Instead, we need to be working together to ensure safe workplaces and to create jobs. We need to give businesses incentives to hire more workers. Bad actors should be held accountable, there is no question. But I believe this proposal represents a backward approach to job creation.

Job training programs are not working. Employers are facing onerous and overreaching new regulations. And with this budget, there is an additional burden of yet more punitive enforcement. So I intend to ask questions along these lines in a moment.

Again, I would like to thank you, Mr. Secretary, for being here at this time.

And I would like to yield to the ranking member, Ms. DeLauro, for her opening statement.

Ms. DELAURO. Thank you very much, Mr. Chairman. My apologies. The Agriculture Subcommittee was meeting at the same time.

OPENING REMARKS, REP. DELAURO

But welcome to you, Mr. Secretary. So delighted you are joining us this morning. I welcome you to the subcommittee for your first appropriations hearing. Thank you for your leadership on behalf of

working families, including pushing for higher wages and support for the unemployed since becoming the Secretary of Labor.

We are here today to talk about the budget for the Department of Labor, an agency whose mission is to help to create jobs, to build a strong middle class, to support a strong economy for everyone by increasing opportunities for economic mobility, by providing temporary assistance to the disadvantaged, and by protecting the health and the safety of our workforce.

As a matter of fact, to quote you, Mr. Secretary, in your testimony, it is about making good on the promise of opportunity, which is central to the mission.

REDUCTIONS TO DOL FUNDING

As we look toward the coming fiscal year, I think it is important to keep in mind the bigger picture and the severe budget constraints the Department of Labor has been facing in recent years. For even as we have been trying to get people across the country back to work after an historic recession, the overall discretionary budget for this department has been slashed by one-sixth, adjusted for inflation, since 2010. These cuts have damaged our priorities across the board.

The future of the economy lies in jobs that require knowledge and skills, and those jobs also offer the best chance for decent, livable wages and benefits. But despite a clear need for a highly skilled workforce and with this majority—House majority's intent on slashing needed investments rather than creating jobs, Congress has cut funding for job training and reemployment programs by nearly 20 percent since fiscal year 2010.

Training programs for dislocated workers have also been cut by a full 20 percent, despite the fact that employers continue to claim they cannot qualified workers to fill job openings. Job training programs for at-risk youth have been cut by hundreds of millions of dollars per year, even though teen unemployment remains above 20 percent.

I might add that—and I will mention it in a moment on my strong support, as you know, Mr. Secretary, for the Job Corps program. And despite its budgetary challenges, even in this current budget, we are looking at it being below—about 20 percent below where we, in my view, need to be.

WORKER PROTECTION

So on the worker protection side, Occupational Safety and Health Administration funding has declined by nearly 10 percent since fiscal year 2010. Wage and Hour Division has seen its budget decline by 8 percent. This means it is now limited to investigating less than 0.5 percent of workplaces in industries with a history of wage violations. Once again, we are doing less with less.

All of these cuts have real-life repercussions that negatively impact both workers and the economy. More unemployed workers are denied access to job training. More low-wage workers are exploited in the workplace, and more jobs, the critical jobs that Americans need and that we should be working hard to restore, are lost.

EFFECT OF SEQUESTRATION ON JOB LOSSES

According to an estimate by the nonpartisan Congressional Budget Office, full implementation of sequestration in 2014 would have resulted in as many as 1.2 million fewer jobs by the end of that year. That is 100,000 jobs lost each month because of sequestration cuts at a time when millions of Americans continue to look for work.

Fortunately, last year's budget agreement reversed some, and only some, of those sequestration cuts. But we still have a long way to go to reverse the damage that has been done.

This majority is moving in the wrong direction. The House Budget Committee is meeting today to mark up the latest iteration of Chairman Ryan's budget, and he is pushing for even deeper cuts to priorities like job training, health, and education. That is the big picture, which is very troubling to me.

Labor, HHS programs make up roughly a third of total non-defense discretionary spending. In the current fiscal year, they are receiving only one-eighth of the increased funding provided under Ryan-Murray. This has consequences, and as long as this subcommittee's allocation continues to be less than its proportional share should be, as was the case in 2014, we will continue to lack the funding we need to make critical investments for the Department of Labor.

Let me just take a moment on the current—the department's current budget request for fiscal 2015. We clearly need to help our workers learn the skills and credentials necessary for the high-skill jobs of a modern economy. So I am glad to see that there are some modest, but important increases this year.

Also happy to see the request of \$1,500,000,000 to continue the partnerships between community colleges, private employers, and training providers. But these funds are requested in a supplemental initiative outside this year's discretionary funding caps. So I want to know how hard the administration plans to fight for them.

WORKER PROTECTION AGENCIES

With regard to worker protection agencies, I support the requested increases for priorities such as wage and hour investigations and whistleblower protections in this request. Adding 300 investigators, updating important rules and regulations will help to ensure that our workers receive the wages, benefits, and legal protections that they deserve.

So I think the Department of Labor is doing many good things and is moving in the right direction, albeit more slowly than I would prefer. But I do have some concerns.

FUNDING REDUCTION TO WOMEN'S PROGRAMS

One example, the administration continues to propose funding cuts to the Women's Bureau, Women in Apprenticeship program. Both of these programs serve to improve career opportunities for women, and I plan to fight for their continuation.

Women now make up half the Nation's workforce, but they face a host of unique and disproportionate challenges in the workplace

from unequal pay to continuing barriers to nontraditional employment. So I am interested to know what the department is doing in light of these funding cuts to improve economic opportunities for women.

There is much to discuss today. I thank you again for joining us, Secretary Perez. Looking forward to your testimony and to working with you to advance the President's economic agenda and support our Nation's workers and their families and to build a strong economy.

Many thanks.

Mr. WOMACK. Thank you, Ms. DeLauro.

Members are advised that we will be honoring the 5-minute rule during our Q and A portion of the hearing today, and that rule will also be in effect for the Secretary this morning. Note that there is a device on the table that operates like a stoplight. It has a green, a yellow, and a red, and that is exactly just like you would be if you were traveling. That is exactly what it means.

Green, you are good to go. Yellow, there is a warning that you have got 1 minute to go. And red means it is time to stop.

Now in the event that you fail to stop, we have now installed red light cameras in the room, and you will receive a bill at your home should you fail to—I am only kidding.

[Laughter.]

Mr. WOMACK. Please help us honor the 5-minute rule so we can give everybody the same amount of time and get as many rounds in as is possible.

Mr. Secretary, again, it is a delight to have you in front of the committee this morning. Look forward to your testimony. The entire content of your opening statement will be entered into the record, but for the moment, the time is yours.

OPENING STATEMENT

Secretary PEREZ. Thank you, Congressman Womack and Ranking Member DeLauro and other members of the committee. Thank you for this chance to testify about the Labor Department's fiscal year 2015 budget request.

This budget, like any other, is more than a compilation of dollar figures. It is an expression of our values, and the Labor Department's values include helping people acquire the skills they need to succeed in the jobs of today and tomorrow, helping employers to get those skilled workers that enable them to grow their businesses, making sure hard work is rewarded with a fair wage, and enhancing our enforcement capacity to protect workers' wages, benefits, and safety on the job.

AMERICAN JOB CENTERS

Our budget calls for the funding necessary to make meaningful progress toward these goals, and I would like to take a few minutes to highlight some of the key items. We continue our investment in training and employment services to the more than 20 million Americans at our 2,500-plus American Job Centers nationwide. At the height of the recession, these centers were the Nation's emer-

gency rooms for job seekers, administering the critical care necessary to restore economic health and get people back to work.

The American Job Centers are resources for businesses as well. During the State of the Union, the President singled out Andra Rush, a small businesswoman from Detroit. Her manufacturing firm is thriving because she found 700 of her workers through the local American Job Center. We effectively served as her human resource department. I would like to think of the Labor Department as playing a match.com kind of role, helping workers and employers find the right fit.

LONG-TERM UNEMPLOYED

One of the most vexing challenges that we are confronting continues to be the plight of the long-term unemployed. Frankly, it is the one issue on my plate that keeps me up more than any other issue at the Department of Labor.

Even as the economy continues to recover, the rate of long-term unemployment remains at or near unprecedented highs. I have met with so many of these people and they are hard-working, diligent. They are pounding the pavement every single day in search of a job. They want nothing more than the dignity of work.

As one person said to me last week in a focus group of long-term unemployed, "I got no quit in me." And we got no quit in them. We are not going to quit on them because we are going to continue to fight to make sure that they have the resources they need to get back on their feet.

And I am pleased that the Senate is poised to pass a bipartisan bill this week that will finally extend emergency unemployment benefits, which were cut off when Congress failed to act at the end of last year. More than 2.2 million people are somehow trying to survive without this lifeline, and I hope the House will act quickly when the Senate passes that bill in finality tomorrow.

Unemployment benefits, while important, are not enough, and we need to work together on ways to get everybody back on their feet who needs a job and wants a job. And toward that end, I am very excited about the \$158,000,000 request for an enhanced, integrated, and expanded Reemployment and Eligibility Assessments and Reemployment Services Program, which will use an evidence-based approach to help long-term unemployed workers and returning veterans to find work faster.

SECTOR STRATEGIES

We also request \$15,000,000 in grants to support sector strategies, helping the long-term unemployed and other targeted populations receive the training they need for careers in growth sectors. These recommendations are built on a growing understanding of what works, and you can be assured that the budget assumes that we will incorporate rigorous evaluations.

Although it is not before the committee, the President's 2015 budget request also sets forth an opportunity, growth, and security initiative, which includes a robust investment in our community colleges, one third of which would be used to promote greater use of apprenticeships, which are another proven workforce develop-

ment strategy that I think is way too undervalued in the United States.

We need to change the national mindset on apprenticeships. A 4-year college degree is important for so many, but others do not need a 4-year degree to punch their ticket to the middle class. And so, we need to make sure we let young people and their parents know that there is a bright future in America for people who want to work with their hands.

FUNDING FOR WORKER PROTECTION

Training and skills development is an important piece of the department's work, but it is not the only piece. And as I said before, we play a critical role in ensuring that Americans get paid the wages they are due, that they are safe on the job, and their benefits are secure. Our budget seeks an increase of almost \$30,000,000 for our Wage and Hour Division, which would cover the cost of hiring new investigators to ensure that people who work get paid and employers who play by the rules are not undercut by those who don't.

No worker should have to sacrifice their life for their livelihood. And so, the 2015 budget calls for substantial investments in the ability of OSHA and the State partners to keep workers safe.

SAFEGUARDING RETIREMENT BENEFITS

And to safeguard the retirement of American workers, we request \$188,000,000 to help protect the more than 141 million people covered by benefit plans, together holding a combined \$7,800,000,000,000 in assets.

Mr. Chairman, we have come a long way since the depths of the Great Recession. The private sector has created 8.7 million jobs over the last 48 months. We are moving in the right direction, but we must do more, and we must pick up the pace. And the Labor Department stands ready to play this critical role in creating and expanding opportunity.

And with that, I look forward to your questions.

[The information follows:]

**STATEMENT OF THOMAS E. PEREZ
SECRETARY OF LABOR
BEFORE THE
SUBCOMMITTEE ON LABOR,
HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
April 2, 2014**

Chairman Kingston, Ranking Member DeLauro and members of the Subcommittee, thank you for the invitation to testify today. I appreciate the opportunity to appear before you to discuss the Fiscal Year 2015 budget request for the Department of Labor.

President Obama's 2015 Budget builds on his vision of opportunity for all Americans of which he spoke in January in the State of the Union address. The President's budget sets forth concrete, practical investments and proposals to achieve his vision by growing the economy, strengthening the middle-class, and empowering all those hoping to join the ranks of the middle-class. It is an agenda of opportunity, action, and optimism. It is the agenda for our work at the Department of Labor over the next three years.

The core principle is as American as they come – 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 the promise of opportunity has always been central to the Labor Department's mission to help create jobs and 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 and people with disabilities, move into the economic mainstream. But now, more than ever, as the President's agenda is our agenda, working to fulfill the promise of opportunity is fundamental to what we do, and the budget proposal would provide the investments necessary to enable us to help fulfill the promise.

We have come a long way since the depths of the Great Recession. We have seen 48 consecutive months of private sector job growth, which has added 8.7 million jobs, and the unemployment rate has reached its lowest point in over five years. Moreover, our manufacturing sector is experiencing the largest and most consistent growth since the mid-1990s. Over 600,000 manufacturing jobs have been added since February 2010. We have cut our deficits by more than half to their lowest share of GDP since before President Obama took office.

By those measures, we are well on our way to a full recovery. But the statistics do not tell the whole story as economic growth is still hamstrung by stubbornly high unemployment. They are cold comfort to the underemployed construction worker who continues to be laid off in between sporadic jobs. They do not encourage the factory worker whose application never gets a second look after the human resources department sees she has been unemployed for six months; or the

waitress or bank teller who works full-time but must depend on public assistance to feed her family. They do not help the country's youth for whom so much depends on that critical first job. So while we have come a long way, much work remains.

The President's budget outlines a comprehensive agenda to make America a magnet for middle class jobs and business investment. Equipping workers with the skills they need and for which employers are hiring is not just a workforce development issue, it is an economic development issue. No matter what your political party, we can all agree on one thing: good jobs and low unemployment are good for the country. As part of the effort to achieve this shared goal, the President is acting on a set of specific, concrete proposals that will make sure American workers have the skills they need for in-demand jobs of today and the jobs of tomorrow. These initiatives will allow industry to identify the skills and credentials required for jobs they are seeking to fill now and tomorrow; give workers and job seekers access to education and training that meets those needs; and provide employers with easy ways to find workers who have or can acquire those skills. Some of these proposals will require new legislation while others can be done within existing program authorities. I am eager to work with all who are willing to roll up their sleeves with me to enact these critical programs.

The President's budget also supports the extension of emergency unemployment benefits for the long-term unemployed. If not extended, 3.6 million additional people are estimated to lose access to extended UI benefits by the end of 2014, despite remaining unemployed and looking for work.

As I will explain, the President's budget request creates opportunity for all Americans while continuing long term deficit reduction through:

- Opportunity, Growth and Security Initiative.
- Investing in a Competitive Workforce.
- Protecting American Workers and their Income and Retirement Security.

OPPORTUNITY, GROWTH AND SECURITY INITIATIVE

While the 2015 Budget will adhere to the spending levels agreed to in the Bipartisan Budget Act of 2013 and reflect the tradeoffs that are required to maintain those levels of spending, the Budget also presents the President's vision for an economy that promotes opportunity for all Americans. As part of this vision, the Budget sets forth a fully paid for Opportunity, Growth, and Security Initiative (OGSI), which will include additional policies to grow the economy and create jobs without adding a dime to the deficit. The OGSI would increase the FY 2015 discretionary caps to make room for priority defense and non-defense investments, paying for \$56 billion in funding with a balanced package of spending reforms and closed tax loopholes. It will increase employment, while achieving important economic outcomes in education, research, manufacturing and public health and safety. Although not included in our budget totals before the Committee, the OGSI envisions a significant role for the Department. At DOL, the OGSI includes:

- **Community College Job-Driven Training Fund.** The OGSF includes \$1.5 billion per year to support a four-year investment in a Community College Job-Driven Training Fund that will offer competitive grants to partnerships of community colleges and other entities to reform curricula and launch new training programs. Of this amount, \$500 million per year will go toward a dedicated apprenticeship training fund to provide grants to states and regional consortia to work with employers to create new apprenticeships and increase participation in existing apprenticeship programs. Apprenticeship is a strategy that we know works to provide good jobs and paths to the middle class. This four-year investment will support doubling the number of high quality, registered apprenticeships in America over the next five years.
- **Supporting and Improving Training and Employment Services.** The Initiative would provide \$750 million to fully restore prior cuts in job training and employment services, invest more intensively in innovation, and target resources to populations that face significant barriers to employment.
- **State Paid Leave.** The OGSF also proposes an additional \$100 million for the State Paid Leave Fund to support states that wish to establish paid leave programs. Currently, only California, New Jersey, and Rhode Island offer such programs, which they call family leave insurance. More States should have the chance to follow this example.

INVESTING IN A COMPETITIVE WORKFORCE

To continue the economic recovery, the 2015 Budget proposes a set of initiatives that would reduce long-term unemployment and hasten reemployment including the New Career Pathways program (formerly the Universal Displaced Workers initiative), reemployment services and eligibility assessments and services, and the three-pronged Job-Driven Training legislative proposal comprising the following programs: Bridge to Work; Back to Work Partnerships; and Summer Jobs Plus.

- **New Career Pathways.** The 2015 Budget proposes mandatory funding for a New Career Pathways (NCP) program that will provide workers with a set of core services by combining the best features of both the Trade Adjustment Assistance for Workers (TAA) and Workforce Investment Act (WIA) Dislocated Worker (DW) programs. Upon enactment, NCP will streamline administrative steps and integrate proven practices, service delivery platforms, and infrastructure of the TAA and WIA DW programs to offer a universal suite of training and reemployment services to a broader number of displaced workers.

To invest in the Nation's youth and the long-term unemployed, the 2015 Budget also includes a package of mandatory funding for job-driven training proposals. These proposals would be designed with employer needs in mind, putting an end to what I call the "train and pray" era of

training workers for jobs with limited demand or with credentials employers do not value. This \$8.5 billion package of proposals includes:

- **Bridge to Work.** The \$2 billion Bridge to Work program is designed to provide states with flexible funding to implement Bridge to Work and other innovative reemployment initiatives targeted to the long-term unemployed and to design, develop, and implement their own path-breaking strategies to encourage reemployment.
- **Back to Work Partnerships.** The Back to Work Partnerships will support partnerships between education and training institutions and businesses to get the long-term unemployed back to work. Funded with \$4 billion over two years, the program would provide competitive grants that support promising and innovative local work-based job and training strategies to place low-income adults and youth in jobs quickly. Such strategies include on-the-job training; sector-based training; training in collaboration with an industry sector partnership; connections to immediate work opportunities; career academies; and/or adult basic education and integrated basic education and training models.
- **Summer Jobs Plus.** This is a \$2.5 billion one-time investment to support opportunities for hundreds of thousands of low-income youth. The first component is a \$1.5 billion formula grant program that will provide funds to states, available up to two years, to support summer and year-round jobs for 600,000 youth. The second component is a \$1.0 billion innovation fund to provide competitive grants to support promising and innovative employment and training strategies designed to improve outcomes for low-income youth.

I am working closely with the Vice President to continue other evidence-based efforts to replicate approaches that have been proven to work, move funds from those that have not, and continue to encourage and evaluate innovative and promising strategies. As that process unfolds, there are steps that we can take right away. The Budget proposes to maintain a strong foundation with funding for existing programs, while taking steps to foster innovation and improvement. The Budget includes:

- **Training and Employment Services.** The 2015 Budget includes more than \$3 billion in formula and other grants to states and localities to provide training and employment services to more than 20 million Americans at over 2,500 American Job Centers across the country. The Budget maintains the state-wide reserve at 8.75 percent, as enacted in FY 2014.
- **Workforce Innovation Fund.** The 2015 Budget proposes \$60 million to support innovative state and regional approaches to the design and delivery of employment and training services that generate long-term improvements in the performance of the public workforce system, both in terms of employment outcomes and cost-effectiveness.

- **Incentive Grants.** The 2015 Budget requests \$80 million for revamped Incentive Grants for states and tribal governments. These funds will be used to reward states and tribal governments that demonstrate the greatest success in their WIA programs serving subpopulations facing significant barriers to employment, such as the long-term unemployed, disconnected youth, individuals with disabilities, and veterans. A limited number of grants would be awarded based on the extent to which eligible entities improve their performance relating to employment outcomes. Combined with the Workforce Innovation Fund, the grants would invest an amount equal to 5 percent of WIA formula grants to drive innovation and better performance at the state and local level.
- **Reemployment and Eligibility Assessments/Reemployment Services (REA/RES).** For those who have lost their jobs, the budget request would reconnect unemployed workers to jobs more quickly through an investment of \$158 million in discretionary funds for reemployment and eligibility assessments and reemployment services (REA/RES), an evidence-based approach to speed the return to work of UI beneficiaries. Research has shown that when reemployment eligibility assessments are delivered seamlessly with reemployment services, they are significantly more effective, with claimants less likely to exhaust their UI benefits, shorter UI durations and lower benefits paid, and faster returns to work with higher wages and job retention. Savings attributable to the program were almost three times higher than the cost. Included in this proposal is dedicated funding to ensure that all recently separated military personnel receiving Unemployment Compensation for Ex-Servicemembers (UCX) get these services to help them successfully transition to the civilian workforce. The request is also sufficient to provide services to the top quarter of UI beneficiaries most likely to exhaust benefits.
- **Sector Strategy.** The Department requests \$15 million for grants to states, consortia of states, or regional partnerships to develop employment and training strategies targeted to particular in-demand industry sectors in regional economies. These grants will help ensure that the long-term unemployed and other targeted populations receive the training they need for careers for in-demand industry sectors.
- **Job Corps.** The 2015 Budget proposes \$1.7 billion for the Job Corps program to prepare disadvantaged young people for jobs in high-demand occupations with good wage potential and to further their education and training as well as their responsibilities of citizenship and adulthood. The 2015 Budget includes \$13.8 million to open and fully enroll students in two new Job Corps centers in New Hampshire and Wyoming, the last two states without centers, and continues the Administration's commitment to improving and reforming the Job Corps program. These reforms include closing a small number of under-performing Job Corps centers; focusing the program on the older youth for whom it has been demonstrated to be effective; improving procurement and financial oversight; modernizing operations with a revised Policy and Requirements Handbook; and ongoing cost-savings reforms.

**PROTECTING AMERICA'S WORKERS AND THEIR INCOME
AND RETIREMENT SECURITY**

Worker protection programs are crucial to protecting the health, safety, wages and working conditions of America's workers. The American people rely on the Department to fulfill our responsibility to make these protections not just words in the statute books, but real safeguards against threats to their lives and livelihoods. The Budget includes nearly \$1.9 billion for the Department's worker protection agencies. Some highlights of our worker protection request include:

- **Wage and Hour.** The 2015 Budget proposes an increase of almost \$30 million for the Wage and Hour Division (WHD) to hire 300 new investigators to target the industries and employers most likely to break laws that ensure workers receive a fair day's pay for a fair day's work, including the minimum wage and overtime pay, as well as the right to take leave to care for their own or their families' medical needs. Included in this increase are funds transferred from the Women's Bureau to enhance enforcement of the Fair Labor Standards Act and the Family and Medical Leave Act, two laws of critical importance to women. An additional \$0.8 million will be used to strengthen the agency's training and professional development program, ensuring that all new and existing investigators have the information and skills they need to be effective. The Budget also provides \$5.8 million for WHD to develop a new integrated enforcement and case management system that will allow investigators to better employ data analysis in identifying violations, targeting investigations and compliance assistance efforts, and evaluating the impact and quality of enforcement.
- **State Paid Leave Fund.** Too many American workers must make the painful choice between the care of their families and a paycheck they desperately need. While the Family and Medical Leave Act allows many workers to take job-protected unpaid time off, millions of families cannot afford this. A handful of states have enacted policies to offer paid leave, but more states should have the chance to follow their example. The Budget includes a \$5 million State Paid Leave Fund to provide technical assistance and support to states that are considering paid leave programs. In addition, as discussed above, the Administration's Opportunity, Growth, and Security Initiative includes \$100 million in additional funds for this Fund.
- **Employee Misclassification.** The 2015 Budget provides nearly \$14 million to help identify and combat the misclassification of workers as independent contractors, which deprives workers of the benefits and protections to which they are legally entitled, such as minimum wage, overtime pay, unemployment insurance, and anti-discrimination protections. This includes \$10 million in continued grants to states to recover unpaid unemployment taxes and \$3.8 million of the WHD increase for personnel to investigate violations.
- **Occupational Safety and Health Administration.** No worker should have his or her life on the line for a paycheck. Workers need the Occupational Safety and Health Administration (OSHA) to enforce their right to a safe and healthful workplace. The vast

majority of employers want to keep their workers safe and they need OSHA to have the resources necessary to help them find the best way to do so. The 2015 Budget provides \$565 million for OSHA to inspect hazardous workplaces and foster employer compliance with safety and health regulations. The request includes an increase for state grants to ensure that State Plan States can do the same. In addition, the request includes an additional \$4 million to strengthen OSHA's enforcement of the 22 whistleblower laws that protect workers against retaliation for reporting unsafe and unscrupulous practices and to centralize the agency's audit function and improve the information technology used by investigators to collect case data.

- **Mine Safety and Health Administration.** The 2015 Budget requests \$377 million for the Mine Safety and Health Administration (MSHA), to build on the remarkable progress MSHA has made to bring the incidence of fatal injuries in the mining industry to an all-time low in FY 2013. The request includes funding increases to improve the timeliness of special assessments, support rulemaking activities, improve systems and data analytics that support enforcement functions, and reform federal training delivery to help protect workers in one of our nation's most dangerous industries.
- **Federal Contract Compliance.** The 2015 Budget proposes an additional \$1.1 million to strengthen efforts by the Office of Federal Contract Compliance Programs (OFCCP) to combat pay discrimination. OFCCP works to eliminate employment discrimination on the basis of race, religion, color, national origin, and sex, to eliminate employment discrimination for our nation's veterans and workers with disabilities, and to secure equal employment opportunity for workers.
- **Defined Benefit Pension System.** The Budget proposes to give the Board of Pension Benefit Guaranty Corporation (PBGC) the authority to adjust premiums to take into account the risks that different sponsors pose to their retirees and to PBGC. The Board would be able to adjust premiums in both the single employer and multiemployer programs. These premium increases are crucial to improving solvency but will not be sufficient to address the complex challenges facing these plans, and the Administration looks forward to working with Congress on a more comprehensive solution.
- **Employee Benefits Security Administration.** To protect the health and retirement benefits of America's workers, the Department is requesting \$188 million for the Employee Benefits Security Administration (EBSA). These funds will protect more than 141 million people covered by an estimated 684,000 private retirement plans, 2.4 million health plans and a similar number of other employee welfare plans, which all together hold \$7.8 trillion in assets.

In addition, the Budget request includes legislative proposals to modernize two worker benefit programs to improve the operation of both programs.

- **Federal Employees' Compensation Act (FECA).** The FY 2015 request for the Department of Labor proposes once again to act on longstanding recommendations from the Government Accountability Office, Congressional Budget Office, and DOL's

Inspector General to improve the Federal Employees' Compensation Act (FECA), which has not been substantially updated since 1974. These reforms will help workers return to the dignity of work and will generate government-wide savings of more than \$340 million over 10 years.

- **Unemployment Insurance (UI) Reform.** The combination of chronically underfunded reserves and the economic downturn has placed a considerable financial strain on states' UI operations. It is important to enhance the UI system's solvency and financial integrity while maintaining benefits for job seekers. The Budget proposes to provide immediate relief to employers to encourage job creation now, improve state fiscal responsibility going forward, and work closely with states to eliminate improper payments.

ADDITIONAL PRIORITIES

The Department's budget request also includes other programmatic increases outside the training and employment services and worker protection areas that support the well-being of American workers.

- **Bureau of Labor Statistics (BLS).** BLS is the principal Federal statistical agency responsible for measuring labor market activity, working conditions, and price changes in the economy. Its mission is to collect, analyze, and disseminate essential economic information to support public and private decision-making. These policies and decisions affect virtually all Americans. The budget request of \$610 million includes an increase of \$1.6 million to add one annual supplement to the Current Population Survey that would collect information relevant to labor force trends, including data on contingent work and alternative work arrangements, and workplace flexibility and work-family balance. The Budget also includes an increase of \$2.5 million for the Consumer Expenditure (CE) Survey to support the Census Bureau in its development of a supplemental statistical poverty measure using CE data.
- **Information Technology Modernization.** The goal of the Department's IT Modernization effort is to provide the foundation for the technology needed to transform the way the Department provides services to, and interacts with, the American public. It continues the integration of the Department's many infrastructures and consolidation of data centers to provide a more robust, reliable, cost-effective, and energy-efficient computing environment. Additional resources are being requested for a new Digital Government Integrated Platform, which will be used to provide a foundation of mobile computing and open data services that can be leveraged by agencies to enhance and deploy mission-specific applications and capabilities. These services will contribute to improved customer service and collaboration opportunities and maximize the return on investment in technology to support agency business operations.
- **Evidence and Evaluation.** The Department continues its evidence-based approach incorporating rigorous evaluation in all agencies and in every discretionary grant program, ensuring the best and most secure technology is used to make administrative

data available for program management and evaluation. The 2015 Budget proposes to continue the provision for a setting aside funding for Departmental evaluations, preserves dedicated funding for Labor's Chief Evaluation Office, and also includes an additional \$2.4 million and 5 FTE to create a department-wide data analytics unit, to create the capacity for the Department to use its administrative data to assess performance, analyze trends, and better target its work.

- **Legal Services.** The 2015 Budget proposes an increase of \$6.6 million to support initiatives proposed for the Wage and Hour Division, OSHA's Whistleblower Protection Program, EBSA's Health Benefits Security project, and to enable SOL to continue to provide a full range of legal services to OWCP's Division of Coal Mine Workers' Compensation.
- **Adjudication.** The 2015 Budget proposes an increase of \$2.0 million for the Office of Administrative Law Judges to support productivity increases and alleviate the growing backlog of cases before the judges; an increase of \$1.3 million from the Black Lung Disability Trust Fund to fully fund adjudication of claims under the Black Lung Benefits Act; and \$0.2 million for the annual maintenance and support funding of the DOL Appeals Management initiative for the Adjudicatory Boards.

CONCLUSION

In FY 2015 the Department of Labor will strive to advance our mission of serving American workers and employers and to build the foundation for our next 100 years. Our request helps create opportunities for working Americans by investing in skills and our enforcement infrastructure. The Budget will help ensure that the Department has the resources to lead the job-driven workforce system to hone the job skills of American workers; bolster efforts that address long-term unemployment; maintain safe and healthy workplaces; strengthen worker voice in the workplace; safeguard critical minimum wage and overtime protections for workers; and ensure secure retirements. The Department's budget request is really a request to invest in the opportunity and potential of the American people.

That's why I am so eager to tackle these challenges every single day. As it's been for all 101 years of our existence, I believe the work of the Labor Department is the work of America.

Mr. Chairman, thank you for inviting me today. I look forward to working with you during the coming year and I am happy to respond to any questions that you may have.

Mr. WOMACK. Thank you very much, Mr. Secretary. And I appreciate your opening comments.

Mr. Secretary, I know this is a budget hearing, but this is the first opportunity that I have had as a Member of Congress to address some issues that I think are down inside of the department that are to me very, very critical.

In your written testimony to the Education and Workforce Committee and in today's testimony, you tout public-private partnerships and an inclusive, transparent process. Hearing a Secretary of Labor mention these things kind of excites me because it gives me hope that there are some things that we can all work on together to help us help this economy and put people back to work.

OFFCP SHORTCOMINGS

One area, though, in desperate need of change, in my strong opinion, is the Office of Federal Contract Compliance Programs, the OFCCP. I believe all of us in this room can agree that the OFCCP has a just and worthy goal to enforce the promise of affirmative action and equal opportunity for employment, and I know that business leaders across the country, particularly those in my district, recognize the importance of having a diverse workforce.

That said, however, I have very serious concerns with this organization. I have had many conversations with contractors and attorneys across the Nation. Every time, I hear the same things, and we can categorize them in basically three areas—transparency, inefficient processes, and a lack of organizational direction.

OFFCP TRANSPARENCY

Let me talk about transparency. The OFCCP reaches conclusions on alleged issues of discrimination and refuses to share with a contractor how it came to conclusions. Contractors have no idea about the rules and metrics the agency is using to determine whether a contractor is in compliance.

The regions and district offices seem to have different interpretations of the same regulations. And when asked, the OFCCP refuses to share the rules and metrics, making it impossible for the contractors to self-audit and to do everything in their power to be compliant with the rules.

OFFCP AUDITS

On inefficiency, audits are prolonged. They are adversarial. They are confusing. And in too many cases, they have gone on for many, many years. Contractors have been forced to produce the same documents multiple times in the same audit to the same compliance officer.

OFFCP LEADERSHIP

And on the subject of leadership and direction, the process differs based on the regional office involved. So, in theory, the same contractor with facilities throughout the country could be subjected to two very different processes. There appears to be very little communication and coordination among the regional offices and the national headquarters in D.C.

So, Mr. Secretary, are you aware of the dysfunction that I talk about with the OFCCP?

Secretary PEREZ. Mr. Chairman, I am very proud of the work that OFCCP is doing. And let me give you an example.

Just yesterday, OFCCP reached a settlement in a case that really embodies the nuts and bolts of the work that they do. Three women who are carpenters were working on a site, and it was a Federal contractor. And they were repeatedly harassed because they were women.

And OFCCP came in there. They investigated the case, and they got tens of thousands of dollars of relief on behalf of these women who were unjustifiably and illegally harassed.

OFFCP SECTION 503 RULE

On the issue of partnership and transparency, I think the Section 503 rule that was recently promulgated is a fantastic example of the approach that we take. Under the leadership of Pat Shiu, there was a very robust and aggressive campaign of outreach to the business community.

And this is what Governor Tom Ridge wrote in the Wall Street Journal after the regulation was issued. He was describing the rulemaking process that we underwent. And he said—this is his words, not Tom Perez's words.

“The Labor Department's rulemaking process should be a model for how Government can work with stakeholders in crafting regulations that are practical and effective. The new rules represent a significant advance in the application of Federal laws to enhance job opportunities for people with disabilities and veterans.”

That is the approach that we took in this rule. That is the approach we are taking throughout. And if you have particular individuals or businesses in your district that are having concerns, by all means bring them to our attention and we would like to have that conversation. Because I am very proud of the work that they have done and continue to do and the approach that they take, which, as Governor Ridge described, is an approach that is inclusive, seeks practical results, and I think they are doing just that.

Mr. WOMACK. In my second round of questions, we will come back, and I have got some more specific questions about the OFCCP to support some of the arguments that I have already made.

But I recognize that my time is about gone, and it will not serve me to be able to get into that line of questioning on this particular round.

Secretary PEREZ. I look forward to it. Thank you, sir.

Mr. WOMACK. Ms. DeLauro.

ECONOMIC OPPORTUNITIES FOR WOMEN

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

Mr. Secretary, the first issue I would like to discuss is the Labor Department's efforts to improve economic opportunities for women. I was pleased to hear your commentary about yesterday's settlement. And it is about women and their families, quite honestly.

I have been involved in putting together something called the Women's Economic Agenda, which focuses on three main prior-

ities—pay and rising pay, work-family balance, and childcare. Let me discuss under the rubric of this effort three specific programs.

Minimum wage. Nearly two-thirds of minimum wage workers are women. In addition, nearly three-quarters of workers in tipped occupations are filled by women. Minimum wage adjusted for inflation has declined by more than 30 percent since 1968.

Second issue is pay discrimination. Last week, New York Times story, 44,000 women who worked for years at some of the Nation's largest jewelry stores, while they were being systematically being paid less than their male coworkers for the same job, also being passed over for promotions.

So I was very happy to see the budget request for an increase of OFCCP and including funds to investigate pay discrimination by Government contractors.

The third issue is paid leave. The U.S. has no mandatory paid leave policy, making it just three countries in the world and the only country among industrialized countries to not mandate paid maternity leave for new mothers. If you could tell the subcommittee how the Labor Department is working to increase economic opportunities for women, how we plan to move forward on minimum wage, pay discrimination, paid leave?

OFCCP EQUAL OPPORTUNITY SURVEY

Let me also add these couple of things so that you can answer it all at once. My hope is that we would be able to reinstitute the OFCCP equal opportunity survey that was discontinued. I want to know how you plan to collect compensation data from Federal contractors in order to improve contractor awareness and encourage self-evaluations and really target contractors most likely to be out of compliance.

The last point, is there any consideration of an executive order, as I and the chair of the Senate Appropriations Committee have called for, prohibiting Government contractors from retaliating against their employees who disclose salary information?

Secretary PEREZ. First of all, thank you, Ranking Member DeLauro, for your longstanding leadership on behalf of working people, not simply women, but working people and vulnerable people.

And I love your question because it really gets at the heart of our opportunity agenda. And part of the answer to your question is through the laws that we enforce, we help so many working women.

I described the OFCCP case that was settled literally yesterday. These are carpenters, female carpenters who are working in an industry that is dominated by men, and they were harassed. That is not right. And we will continue to root out that sort of nuts and bolts discrimination.

SETTLEMENT ON TIPPED WORKERS

In our wage and hour context, we just reached the largest settlement in DOL history on behalf of tipped workers, who are disproportionately women, more likely to be living in poverty, more likely to be on food stamps, as you well know. That was a case out of Philadelphia where the recovery was almost \$7,000,000 on be-

half of tipped workers. So our enforcement work will continue in this area.

FMLA WORK

I am very proud of the work we have done in the FMLA. Over the past 5 years, we have collected more than \$9,000,000 in back wages and monetary relief for employees affected by this particular law. And we will continue—and we do a lot of technical assistance because what we discover in the FMLA context is many employers simply don't know what exactly it is they are allowed to do and what they can't do.

And so, a lot of the work that we do is troubleshooting at an early level. And so, we will continue to do that.

STATE PAID LEAVE INITIATIVE

The President's budget supports—there is a \$5,000,000 request to help States implement paid leave programs, States like Washington and others. I think it is, frankly, a bit embarrassing that we are in the company of Lesotho, Papua New Guinea, and Swaziland as the only country in the world that has no paid leave.

And I want to applaud your Governor Malloy, who implemented a paid leave program, and they have been evaluating it for its impact on employers. And it is going well, and it hasn't had that adverse impact.

And so, all of these areas. In our regulatory work, the home health rule that we enacted was a huge issue for women because 90 percent of home health workers are women.

Ms. DELAURO. What kind of opportunity do we have to lift that restriction with Federal contractors? Well, I still have a minute.

Mr. WOMACK. We will come back to that—

Ms. DELAURO. Well, no. It is—

Mr. WOMACK [continuing]. Because it is red.

Ms. DELAURO. Well, it is red now, but it—

Mr. WOMACK. The gentleman from Utah, Mr. Stewart?

Mr. STEWART. Thank you, Mr. Secretary, for being with us.

There is a number of things I would like to talk about. Some of them are quite concerning to me, and I would like to move quickly, if we could.

OSHA INSPECTION OF FAMILY FARMS

I grew up on a family farm. We still have that farm in my family. In fact, so does my wife. When I was in the Air Force, there was nothing I enjoyed more than going home and ranching with my brothers.

We don't have any employees on my farm. Do you believe that OSHA has the ability to step on my family farm and to inspect and regulate what we do there?

Secretary PEREZ. There is a congressional rider, Congressman, that says that farming operations that employ 10 or fewer employees, that OSHA is not allowed to undertake enforcement activities on those family farms. So we take that rider very seriously.

Mr. STEWART. Then help me understand, and I know you must be familiar with this from Senator Johanns from Nebraska, where

there was at least one example and probably others—well, I know of others—where inspectors came on family farms. This one had one employee, and they wrote them up for such things as not having a written plan to control fugitive grain dust and fined them \$130,000. I think that is insane.

Secretary PEREZ. Well, I am happy to give you the context of that. I spend a lot of time in rural Wisconsin. That is where my in-laws have a place, and we go up there a lot, and it is farm country. And one of the challenges is when somebody has their farm, they will often list their name but they don't report the number of employees.

I have also seen a number of farming operations where they are farming, but they are also doing other things because they are very entrepreneurial. And so, for instance, in the case you describe in Nebraska, there was a situation there where they had indicated that they were doing things in addition to farming that took them out of the definition of a family farm.

Mr. STEWART. What were they doing that was in addition to farming?

Secretary PEREZ. My recollection was that they had a grain elevator.

Mr. STEWART. Grain storage.

Secretary PEREZ. Yes they were engaging in grain storage that took them beyond the definition of a family farm.

Mr. STEWART. And do you realize that almost every family farm in America has grain storage?

Secretary PEREZ. And many of those are family farms, but some of those go beyond the definition, and have more than 10 employees. And so, when we investigate and learn that they are, in fact, a family farm, then we back off. But it is hard to—

Mr. STEWART. In this case—in this case, you didn't.

Secretary PEREZ. Well, again, this case was the subject of significant investigation because, the employer provided codes that indicated that they were doing more than a family farm. And they actually reported that they were a grain facility.

And, once we moved forward in that case, we were able to resolve it.

Mr. STEWART. So just to be clear, if I have a grain facility on my farm, which we do on my brother's, we have less than—fewer than 10 employees, you have no right at all to come on that farm and do an inspection then?

Secretary PEREZ. Under those circumstances, that would be correct, sir.

Mr. STEWART. Okay. Thank you for that. And I think that is really important for us to establish that.

It will be interesting to see how this one is resolved.

Secretary PEREZ. Well, it has been resolved, sir, the Nebraska case.

Mr. STEWART. And how was it resolved?

Secretary PEREZ. There was a settlement in the case, I believe, a few weeks ago, and the fine that you mentioned was withdrawn.

Mr. STEWART. Okay. And you believe that that was the appropriate outcome for that case, I am sure?

Secretary PEREZ. Yes. We are comfortable with the settlement.

Mr. STEWART. Yes. And then I want to move on, but can you see, and I hope that you can, how that builds resentment and distrust in a case like that for farmers and for other people out there and to feel like this heavy hand of the Government comes in. And this was a terrifying experience for these individuals, I am sure, facing a \$130,000 fine for something which is going on in literally tens of thousands of family farms across the country.

But let me move on—

WORKING WITH FAMILY FARMERS

Secretary PEREZ. Sir, it is a terrifying experience for parents, with whom I have spoken, who have lost their children who have suffocated in grain silos. That is why we were getting involved because the incidence of deaths in grain silos—preventable deaths, I would note, has been significant.

And that is why we have been working collaboratively with farmers and others, to prevent those tragedies.

Mr. STEWART. Are you indicating then that you think it is appropriate for you to come on family farms with grain silos to investigate them?

Secretary PEREZ. Well, again, if there are more than 10 employees, then—

Mr. STEWART. We are not talking more than 10. We are talking family farms. You said it is terrifying for parents to lose their children. Heavens, I don't know of anyone who cares about a child like their parents do, certainly more than the Government does.

We don't need the Government to come in and provide that type of oversight for us. And it seems to me you are indicating that that is appropriate?

Secretary PEREZ. Well, again, our role is to protect workers. And when we have less than 10 people employed on a family farm, Congress has directed OSHA not to be involved, and we appreciate that, we respect that, and we will abide by that.

At the same time, I think we have a shared interest in preventing deaths on farms that employ more than 10 workers. And I have spoken to parents who have had to bury their loved ones, and we are trying to prevent that and trying to do it in a common sense way.

Mr. WOMACK. The gentlelady from Alabama, Mrs. Roby.

Mrs. ROBY. Thank you, Chairman.

And thank you, Mr. Secretary, for being here today.

Secretary PEREZ. Good morning.

REGIONAL EMPHASIS PLANS

Mrs. ROBY. I sent you a letter on March 27th, highlighting some of the issues I wanted to talk to you about today. So I hope that letter found its way?

Secretary PEREZ. Thank you for sending that. I appreciate it. It did, and I reviewed it.

Mrs. ROBY. Okay. Great. Well, the main issue here is when you look at an REP, a regional emphasis plan, and you have an agency, as I stated in my letter, that has sweeping authority to enter and inspect and investigate and, as my colleague's line of questioning, to make sure that our employees are working in a safe environ-

ment. And you have that broad, sweeping authority without delay, at reasonable times, so on and so forth.

It is my belief that when you issue an REP like the one I am going to talk about now and you treat similar businesses differently in different parts of our country, that if you are going to do that, then there should be a really high expectation of justification for doing so.

The REP that I am talking about today was issued, and I just want to make sure that you are aware of it, that is targeted and directed at auto part manufacturers.

Secretary PEREZ. Right.

Mrs. ROBY. But specifically, only in Alabama, Georgia, and Mississippi. And what is concerning to me is that this REP, in the background section, states that the auto part supplier industry continue to be the source of serious injuries, including amputations and deaths, to employees.

We all want our employees in our auto part manufacturers to go home safe at night to their families and to their children. But I am very interested in the information that came directly from the Department of Labor that shows that Alabama and Georgia are below the national average when it comes to incidents of injury, just injury.

And I live in Montgomery near many of these facilities and have seen no reports of, you know, multiple incidents of amputations and/or deaths. So what I am trying to figure out, you know, your budget calls for substantial investments in the area of occupational safety and health, and I know that other—doing our background on this issue, I know that other REPs cite specific incidences that would lead to a targeted inquiry such as this.

I mean, this is a 2-year audit, basically, on auto plant manufacturers in specific States and a specific industry. And there are \$300,000,000 in fines in 2013, and your request, again, is for substantial investments in this area. I am trying to figure out if your job is to make the workplace more safe, why are you targeting three States that have incidents below the national average, and this industry exists in other States that do not?

Secretary PEREZ. Thank you for your question, Congresswoman.

We follow the data, and we gather the data. And let me share with you the data on injury rates in the auto parts manufacturing industry.

In Alabama in particular, the injury rate in auto parts manufacturing is 50 percent higher than in the same industry across the country. So the reason we have this regional emphasis program is because when we see data and we have experience showing that there is a problem, then we put emphasis in the areas where there is a problem.

We worked with Hyundai for almost 5 years in a compliance assistance mode to try to address these issues, and we were unable to bring down the injury and illness rate. So the—

Mrs. ROBY. But those statistics are quite—in quite contrast to what came out of the Department of Labor showing that Alabama and Georgia are below the national average.

Secretary PEREZ. No, I am happy to—

Mrs. ROBY. So if I could get—I would very much like to get a copy of that.

Secretary PEREZ. Okay. I am happy to give you that data because we are following the data in our regional emphasis program here and across the country. When there is a problem, that is what brings us in there. And regrettably, there is a problem there.

Mrs. ROBY. What is troubling to me is that three States can be targeted in a specific industry, and we don't have the data that shows and backs up that you guys are going to come into—

Secretary PEREZ. Well, I am happy to share the data with you that demonstrates—if there is a problem in a particular State, regardless of what the State is, we have a very important need to protect workers in that State. There is a problem in Alabama in terms of the—

Mrs. ROBY. This is certainly news to us, based on the same information that came out of your department.

Secretary PEREZ. Okay. Well, we will—

Mrs. ROBY. So I will continue this questioning—

Mr. WOMACK. The gentlelady's time has expired.

Mrs. ROBY. Thank you.

Mr. WOMACK. The gentleman from Ohio, Mr. Joyce.

ADDRESSING SKILLS GAPS

Mr. JOYCE. Thank you, Mr. Chairman.

Secretary PEREZ. Good morning, sir.

Mr. JOYCE. Good morning, Secretary. How are you, sir?

Secretary PEREZ. Congratulations on your Dayton Flyers.

Mr. JOYCE. You are very kind. Thank you.

Secretary Perez, thank you for appearing here today. But according to preliminary data from the Bureau of Labor Statistics, there were 4.1 million job openings in January, and that is up from 3.8 million a year ago. This, despite a labor participation rate at the lowest level since 1978.

Too many workers have simply given up looking for work and dropped out of the workforce. Employers tell us they cannot find workers that have the skills that they need. This skills gap has been a persistent problem, as you and I have discussed before, despite billions of dollars the department spends each year on employment and training programs.

Now putting aside the new strategies that you are testing for a moment, what are you doing within the existing training and One-Stop structures to address this skills gap?

Secretary PEREZ. Quite a bit, I did this at a local level, and at a State level, and I was very proud of the work that we did. And the key to our success was partnership and having a demand-driven approach.

In other words, what are the demand needs of employers? You can't train and pray anymore. You can't train widget makers if nobody is hiring widget makers. And so, the approach that we took when I worked on this at a local and State level and the approach we are taking now, at a Federal level, is to make sure that we understand what the demand needs are and that we match the demand needs with the training available through community col-

leges and others, to help people increasing their skills and get those jobs.

I can give you some facts and figures about some of the work that we have been doing across this country. Under our Wagner-Peyser program, for instance, last year alone, 18 million people received services. About 14 million were unemployed when they came in, and a little over half of them went on to find a job within 3 months after completing their program. In our WIA programs, four out of the five training participants found a job.

AMERICAN JOB CENTERS

Earlier we talked about a woman in Detroit, named Andra Rush. She runs a company called Detroit Manufacturing Systems. She manufactures the consoles for the Ford F-150, and she went from zero to 800 employees with the help of the American Job Centers because we were basically her HR department.

And we helped long-term unemployed get to work. We determined what the skill needs were, and we helped 700 or 800 people punch their tickets to the middle class.

There are a lot of similar opportunities out there. And what we are trying to do, with the Vice President's leadership on our skills working, group is to make sure we do even more to align the funding streams from the various agencies to expand our investment in apprenticeship.

Because I know in your neck of the woods, there is a bright future for people who work with their hands. I talk to employers, as we discussed the other day. Apprenticeship has a bright future in this country as a result of the aging of the population and the renaissance of manufacturing.

And so, we are redoubling our efforts in the apprenticeship context. We are doing even more now to promote innovation. We have waiver programs at the Department of Labor that States and local governments have availed themselves of. What we are doing right now is figuring out what works, take it to scale, expanding that, working on behalf of veterans. And last year, we helped over a million veterans through our American Job Centers.

And so, there is a lot going on. There are many employers, you are absolutely right. The employers that I talk to are saying, "I am bullish about my future," and we have got to make sure people have the skills to compete.

And that is why we are that match.com. That is why the community colleges in your jurisdictions and across this country play such a critical role because our investments through our TAACCCT funding and through our other programs have enabled those community colleges to kind of be like the secret sauce and give people the training opportunities they need.

And oftentimes, and it is a 6-month program or a 7-month program that gives you an industry-recognized credential. One way we are measuring our progress is how many industry-recognized credentials are we helping to facilitate. Because when you have that Microsoft certification or you are a journeyman or journeyperson, you are punching your ticket to the middle class. Those are portable certifications that enable you to move forward.

So I am proud of the work we have done. At the same time, we have plenty of room for improvement. That is what we are doing right now under the leadership of the Vice President.

And having worked on this issue at a local and State level, I know the importance of business outreach. I know the importance of partnership, and I know the importance of having a philosophy. And our philosophy is that it has to be demand driven, and we have to help as many people as possible.

Mr. WOMACK. The gentlelady from California, Ms. Roybal-Allard.

TAACCCT GRANTS

Ms. ROYBAL-ALLARD. Secretary Perez, TAACCCT grants have enormous potential to help adults acquire the skills, degrees, and credentials needed for high-wage, high-skill employment. And I was very pleased that the nine campuses of the Los Angeles community college district secured a \$19,000,000 TAACCCT grant this fall.

This funding will enable the district and their partners to create an innovative training model to prepare trade-impacted workers, veterans, and other long-term unemployed individuals in the L.A. area for new careers in the healthcare workforce.

Unfortunately, the TAACCCT grants were only funded through 2014. The successor program, the Community College Job-Driven Training Fund, was included in the Opportunity, Growth, and Security Initiative. However, no additional funding was provided in the budget request.

So in the absence of TAACCCT grants or funding for the successor program, how does the Department of Labor plan to prepare the American workforce to meet the growing demand for 21st century high-skilled workers? And are there other programs that can fill the void that is being left by this important program?

Secretary PEREZ. The TAACCCT program has been an indispensable funding stream that has enabled us to catalyze partnership and innovation across this country. The program that you describe in Los Angeles, Congresswoman, is a perfect example.

And I was out there with the Mayor and with the community college presidents when we announced that grant. The community colleges, frankly, hadn't ever collaborated on a grant before, and they were running—they had a curricula. So if you were taking Nursing 101 at community college A, the curriculum was different from the community college B. And it wasn't aligned to what the needs of the local health providers were.

And so, now we have facilitated that alignment. People are coming out of that program with skills and competencies that the business community locally is demanding and needing, and they are able to hire people. And that is why this program is so important.

That is why the President included it in his request. Because I go—anywhere I go across this country, you hear from community college presidents, you hear from business leaders about how this program has so critically served the needs of employers. Just in response to Congressman Joyce's question, this is part of the answer to that question is having the community colleges at the table to provide the skill training so that people can increase their skills to get the jobs of tomorrow.

They are a critical component, and I have been in community colleges across this country to see it work. So I hope we will continue, and I think we can demonstrate the value added of this. And I am hopeful that as we move forward to identify the 3 million jobs that Congressman Joyce referenced before, this is a big part of how we solve this. And that is why we are going to continue to advocate vigorously to continue this program.

Ms. ROYBAL-ALLARD. And, but there is no funding?

Secretary PEREZ. This is round four. This is the last round. So if Congress does not act—we are about to announce the fourth round of TAACCCT funding. It was a \$2,000,000,000 roughly program. This will be round four of four.

REAUTHORIZE THE TRADE ADJUSTMENT ACT

If Congress does not act next year to re-up it, then it will not move forward. If Congress does not act by the end of the year to reauthorize the Trade Adjustment Act, then millions of trade-adjusted affected workers will not have access to that critical lifeline. And that program has served very, very important needs.

We are using our H-1B programs and the funding that comes from there to fund certain grant making. But, there are limits to that.

Ms. ROYBAL-ALLARD. Yes. We will lose tremendous ground.

Secretary PEREZ. Yes.

CHILDREN WORKING IN “AGRICULTURE”

Ms. ROYBAL-ALLARD. I understand that earlier the issue of children working in agriculture was briefly brought up, in my absence while I was in another subcommittee hearing.

For the last 13 years, I have been introducing the CARE Act to end the double standard that allows children in agriculture to work at ages, younger ages for longer hours and in more dangerous circumstances than those working in all other industries.

And although agriculture has a fatality rate nearly eight times higher than the national average, attempts to protect our Nation's children working in agriculture have met with strong opposition in spite of the fact that my bill and those of us who have been working have made every effort to exempt and to protect family farms. So, without equal protection for these children under our laws, robust oversight enforcement of our current laws is essential to providing some level of protection to our children in agriculture.

Mr. WOMACK. The gentlelady's time has expired.

We have been joined by the chairman of the subcommittee. I am going to give Mr. Kingston just a few minutes to kind of get his bearing, and we will go into a second round of questions. And we will be coming back to everybody here momentarily, and I will lead.

OFCCP AUDITS

I want to go back to OFCCP for just a minute. I am thrilled that you are proud of the overall work in the Labor Department, but I want to confine my questions to OFCCP.

And Mr. Secretary, I spent 30 years in uniform, and I have been responsible for and participated in a number of inspections involv-

ing my military units. And so, I kind of look at the audit process and the inspection process that I have witnessed in the military as kind of the same thing. So, in your words, very briefly, what is the purpose of one of these audits?

Secretary PEREZ. To ensure compliance with Federal laws—

Mr. WOMACK. Okay.

Secretary PEREZ [continuing]. That mandate nondiscrimination.

Mr. WOMACK. Because the laws that are in place have a certain purpose, to ensure that people have opportunity and equal opportunity and this sort of thing. So can we agree that the audit process, as you say, is to ensure compliance, but really overall is to just make sure that people have these opportunities?

Secretary PEREZ. When you ensure compliance with non-discrimination laws, I think you expand access to opportunity.

Mr. WOMACK. So do you give compliance assistance to the people that you are auditing?

Secretary PEREZ. Outreach, education, and technical assistance has always been part of what we do at OFCCP. I have been doing—

Mr. WOMACK. All right. So when you—let us just say that you are going to company A, and you are going to perform some kind of a desk audit on this particular company. They are notified that they are going to be subject to a desk audit. Do you reach out to them? Or the people in your office, do they reach out and actually work with them to understand what the metrics are going to be, what the things are we are going to look for? So that we can ensure that everybody is having this opportunity.

Secretary PEREZ. Sure. And let me give you some facts and figures. In fiscal year 2013, our field offices conducted more than 6,200 outreach activities for workers and employers, 687 compliance assistance events—

Mr. WOMACK. Let me ask my question. I am talking—let us go back to the company that I just gave an example of.

Secretary PEREZ. Sure.

Mr. WOMACK. So you are going to perform a desk audit. Do you go to the company and you say this is what we are looking for, this is the checklist. Do you actually work with that company so that they understand what they are up against?

I mean, there is a whole spectrum of things that you can look at. Do you work with them specifically on the issues that you are looking at for that particular company?

Secretary PEREZ. There is a really good chance that this company attended one of the 900 outreach seminars, conferences, and symposium that were held by our very active and robust outreach/technical assistance team.

And so, our goal is, by the time we conduct an audit, people will already understand what the rules are.

Mr. WOMACK. A lot of rules, aren't there?

Secretary PEREZ. Actually, there is a simple rule. Don't discriminate. That is really the simple rule. I mean, you can't do what the people in this case I described yesterday were doing. They were discriminating against women carpenters. You can't do that.

OFCCP AUDIT PROTOCOL

Mr. WOMACK. Okay. So let me give you an example. It is my understanding that when the contractors get an OFCCP request for individualized pay data and the letter says we found unexplained differences in your compensation, then the company goes back and says what pay differences are you seeing? And the compliance officer declines, citing protocol. Are you aware those compliance officers are forbidden from sharing the answer to that question?

Secretary PEREZ. Congressman, I will repeat again. If you have a specific employer that you felt was treated either unfairly or asked for information that they couldn't get, by all means bring it to our attention. Because I am very proud of the work that is being done at OFCCP—

Mr. WOMACK. Okay.

Secretary PEREZ [continuing]. And if there is a particular situation, I want to make sure we are—

Mr. WOMACK. In the middle of an audit, is it possible that an OFCCP audit might request certain type of information and give a timeframe for response of, say, 24 hours?

Secretary PEREZ. I don't know what the timeframes are. That seems a little—

Mr. WOMACK. But are you aware that any of those timeframes exist?

Secretary PEREZ. Well, again, sir, I—

Mr. WOMACK. Do you think that is fair?

Secretary PEREZ. Well, again, what I think is fair is if you have a particular employer that has a specific problem, I want to hear about it so that we can resolve it because I am a big believer in making sure that we are—

Mr. WOMACK. Well, here is what I am concerned about. What I am concerned about is I want the agency to want to work with the company to ensure the company is compliant and, when not compliant, to help them become compliant, to have a working relationship so we can put more people to work.

But we have got a lot of people running scared out there because of the spectrum of things that they can be subject to and that these goalposts continue to move from place to place.

And I recognize that I am out of time, and I am going to treat myself no differently than anybody else and give myself the gavel and turn the microphone over to the—

Or Ms. DeLauro will be next.

RAISING THE MINIMUM WAGE

Ms. DELAURO. Let me just ask about the chair.

Mr. WOMACK. Does the chair prefer—

Mr. KINGSTON. No, we will go—

Ms. DELAURO. You are okay?

Mr. KINGSTON. Yes.

Mr. WOMACK. Ms. DeLauro, you are recognized.

Ms. DELAURO. Thank you very much.

If I can ask unanimous consent to put into the record a document about the raising the minimum wage, 10 Reasons Raising the Minimum Wage to \$10.10 Is a Women's Issue.

Mr. WOMACK. Without objection.
[The information follows.]

MINIMUM WAGE

10 Reasons Raising the Minimum Wage to \$10.10 Is a Women's Issue

March 2014

Today's reality:

1. About two-thirds of minimum wage workers are women. The federal minimum wage is just \$7.25 per hour.
2. \$2.13 per hour is the minimum cash wage for tipped workers. Seventy percent of restaurant servers are women – and the poverty rate of servers is nearly 3 times higher than the rate for the workforce as a whole.
3. 22 percent of minimum wage workers are women of color (compared to less than 16 percent of workers overall).
4. More than 3 out of 4 women earning the minimum wage are age 20 or older, and most do not have a spouse's income to rely on.
5. Women working full time, year round are typically paid only 77 cents for every dollar paid to their male counterparts – a 23 cent wage gap.

If the Fair Minimum Wage Act were implemented:

6. More than 15 million women would get a raise, including more than 1 in 5 working mothers.
7. A mother with two children working full time at the minimum wage would earn enough to pull her family out of poverty, instead of falling more than \$4,000 below the poverty line.
8. The wage gap could shrink by 5 percent. The average wage gap in states with a minimum wage at or above \$8.00 (18.1 cents) is 22 percent smaller than the average wage gap in states with a \$7.25 minimum wage (23.3 cents).
9. Workers in tipped occupations, nearly three-quarters of whom are women, would have a more adequate and stable base income.
10. The higher wage floor would improve job quality in the low-wage jobs that are disproportionately filled by women and account for much of the job growth during the economic recovery. It would also spur new job growth by adding billions of dollars to the economy.

The Fair Minimum Wage Act (H.R. 1010/S. 460) and the Minimum Wage Fairness Act (S. 1737) would raise the federal minimum wage to \$10.10 per hour by 2016, gradually increase the tipped minimum cash wage to 70 percent of the minimum wage, and index both wages to keep up with inflation.

For more information, visit www.nwlc.org/minimumwage.

- 1 NWLC calculations based on Bureau of Labor Statistics (BLS), Characteristics of Minimum Wage Workers, 2013, available at <http://www.bls.gov/kps/min-wage2013.pdf> (hereinafter BLS Min. Wage Characteristics) (Table 1) (last visited Mar. 26, 2014). This is true for both those 16 and older (62 percent) and 25 and older (64 percent). The term "minimum wage workers" refers to workers making the federal minimum wage or less.
- 2 The White House, *The Impact of Raising the Minimum Wage on Women*, at 1 (Mar. 2014), available at <http://www.whitehouse.gov/sites/default/files/docs/20140325minimumwageandwomenreportfinal.pdf>.
- 3 NWLC calculations of minimum wage workers based on BLS Min. Wage Characteristics (Table 1), *supra* note 1. This figure assumes 83.4 percent of white women are Hispanic. See U.S. Census Bureau, *Current Population Survey, 2013 Annual Social and Economic Supplement* (hereinafter, CPS, Annual Social and Economic Supplement) Table Creator, available at <http://www.census.gov/cps/data/cps/tablecreator.html>. NWLC calculations of overall workers based on CPS, Annual Social and Economic Supplement, (Table PINC-05), http://www.census.gov/hhes/young/cps/tables/032013/pinc/pinc_05_000.htm (last visited Mar. 26, 2014).
- 4 NWLC calculations based on BLS Min. Wage Characteristics (Tables 7 & 8), *supra* note 1. More than three-quarters of women 16 and older and 62 percent of women over 25 earning the minimum wage do not have household income from a spouse.
- 5 NWLC calculations based on CPS, Annual Social and Economic Supplement (Table PINC-05), *supra* note 3.
- 6 David Cooper, Econ. Policy Inst. (EPI), *Supplementary Data: State-by-State Characteristics of Workers Who Would Be Affected by Increasing the Federal Minimum Wage to \$10.10 by July 2016*, at 2 (Dec. 2013), available at <http://s2.epi.org/files/2013/minimum-wage-status-tables.pdf>, and unpublished EPI estimates.
- 7 NWLC calculation assuming 40 hours per week, 50 weeks per year at \$7.25 per hour. U.S. Census Bureau, *Poverty Thresholds for 2013* <https://www.census.gov/hhes/brvs/poverty/data/threshld/index.html> (last visited Feb. 4, 2014).
- 8 The White House, *Impact of Raising the Minimum Wage*, *supra* note 2, at 2. See also NWLC, *Higher State Minimum Wages Promote Fair Pay for Women* (Mar. 2014), available at http://www.nwlc.org/sites/default/files/pdfs/minimum-wage-and-wage-growth-binary_2014.pdf.
- 9 NWLC calculations based on BLS, *Current Population Survey (CPS)*, 2013, Table 11, available at <http://www.bls.gov/cps/cpsaat11.pdf>.
- 10 See NWLC, *Women are 76 percent of workers in the 10 largest low-wage jobs and suffer a 10 percent wage gap* (Mar. 2014), available at <http://www.nwlc.org/sites/default/files/pdfs/women-are-76-percent-workers-10-largest-low-wage-jobs-and-suffer-10-percent-wage-gap>. See also David Cooper, EPI, *Raising the Federal Minimum Wage to \$10.10 Would Lift Wages for Millions and Provide a Modest Economic Boost*, at 11-13 (Dec. 2013), available at <http://s2.epi.org/files/2013/raising-the-federal-minimum-wage-to-1010-would-lift-wages-for-millions-and-provide-a-modest-economic-boost.pdf>.

Ms. DELAURO. Thank you.

FOLLOW-UP ON GRAIN STORAGE BIN FATALITIES

Just a quick note on the issue of grain storage bins and fatalities. 2010, 57 engulfments in grain facilities and 31 fatalities. Approximately 70 percent of documented entrapments occur on small farms exempt from OSHA's grain handling facility standard. According to OSHA, it has walked out of inspections of small farms 91 times due to the rider. This included 11 fatality cases.

TAACCCT GRANT PROGRAM

Let me follow up on the issue, the TAACCCT grant program, which is really just such an extraordinary success, if I can. Can you make a compelling case for going above this year's spending caps to fund additional job training programs?

And then, in that context, how will our State agencies work with this expanded apprenticeship program? Can they apply for any of this \$500,000,000? I have one question after that about reemployment services, Mr. Secretary.

Secretary PEREZ. The short answer is absolutely I can make a compelling case. And what I would actually invite the members of the committee to do is convene a roundtable of your community college presidents, business leaders, and others who have participated in this program and ask them how it has gone.

Because I am quite confident that whether you are in metropolitan Cleveland, Alabama, Connecticut, California, or Utah, you are going to find that this program has been an unmitigated success in helping people. And so, I think that is very important.

Ms. DELAURO. I was thinking of Gateway—Gateway Community College, where they have a veterans program going, which is an enormous, enormous success.

APPRENTICESHIP PROGRAM

Secretary PEREZ. And the apprenticeship issue. A big part of what we are trying to do on the apprenticeship issue is build capacity at a State level. Some States have really good registered apprenticeship programs, and others have work to do.

And so, a big part of what we are trying to do in the apprenticeship context is build that capacity within States in the registered apprenticeship context. So these resources, a big part of them, would go directly to States.

FUNDING FOR REEMPLOYMENT SERVICES

Ms. DELAURO. Just to ask, the Congress has cut funding for job training and reemployment programs by 20 percent since fiscal year 2010. Training programs for dislocated workers have been cut by full 20 percent despite—and for my colleague Congressman Joyce, despite the fact that employers continue to claim they cannot find qualified workers to fill job openings.

Mr. Secretary, your budget requests a doubling of funding for reemployment services and reemployment eligibility assessments. Can you tell us how these activities are going to help the long-term unemployed return to the workforce? Can you talk about the budg-

et implications of these programs and that these programs actually save money by shortening the duration of unemployment?

RES/REA JOB CENTERS

Secretary PEREZ. We have studied this issue, and independent folks have studied the issue of the effectiveness of REA/RES programs. The long-term unemployed, as I said in my opening statement, is the issue that keeps me up the most at night.

And what we have seen is that these programs, REA/RES are fancy names for we bring in the job seeker. We do an assessment of the job seeker. And depending on that assessment, you get connected to training programs. You get connected to in the case of a woman from Connecticut, what she needed was she needed to redo her resume because it was stale.

And so, the American Job Center helped her redo her resume, and so different people will have different needs. It is a triage situation.

And for veterans, especially for folks leaving military service and now eligible for unemployment, this program has been indispensable. And when we connect people to the American Job Centers and we provide this extensive help, the studies have shown that we get people back to work.

And so, this increase, this requested increase is designed to address long-term unemployment. It is designed to assist our veterans who are leaving military service. We know with the mandatory drawdown that we have more veterans in the pipeline, and we are trying to work upstream with them so 6 months before they leave, we are helping them out.

And so, we are continuing the work in that area. This program is one of the most important things that I would respectfully assert that Congress could do to reduce the ranks of the long-term unemployed.

Ms. DELAURO. Thank you, Mr. Secretary.

Mr. WOMACK. Now the microphone goes to the chairman of the subcommittee. Mr. Kingston from Georgia?

Mr. KINGSTON. Thank you, Mr. Chairman.

Secretary PEREZ. Good morning, Mr. Chairman.

Mr. KINGSTON. Mr. Secretary, good to see you and members of the committee.

FEDERAL JOB TRAINING PROGRAMS

One of the high concerns I have is we have 47 different job training programs across 9 Federal agencies. 2011, the GAO did a study and found that these cost more than \$18,000,000,000, but they also could not find evidence that any of the job training programs were working.

And yet this Congress has tried to combine as many as possible, and the administration has fought us every inch of the way. While I may want to reduce this, say, to 10, it doesn't seem possible that the administration can seriously believe 47 is still necessary.

It would appear to me that it would be something that we could say, okay, which ones work? Where is the duplication, and where are they effective?

I don't see it as being a huge philosophical question, either. I see it as just being a practical one. But in this town when you are trying to do something that requires common sense, everybody digs into the bunker and says, no, we have got to protect this constituency or that constituency.

So what is your comment on that?

TRAINING PROGRAM CONSOLIDATION

Secretary PEREZ. Well, we have had this—we have had a very, I think, productive conversation with members of the Workforce Committee, with Chairman Kline and others about this issue, because, if you look at the President's budget request, the New Career Pathways Program is, in fact, a consolidation of the Displaced Worker Program and the TAA program.

At the end of this year, TAA expires, and people in your districts receiving critical assistance are going to lose it. So, our philosophy is to put those programs together because those work.

As it relates to other investments, I think it is important to understand that when you add up programs or funding streams, a funding stream is not a program. There are five—or four or five different funding streams for veterans, for instance.

Mr. KINGSTON. Let me ask you—let me ask you this. Did you read the GAO report?

Secretary PEREZ. I sure did.

Mr. KINGSTON. And what did you think? Especially the part that said there was no evidence that they were creating jobs or no evidence that they were working.

Secretary PEREZ. That is actually not what I thought the GAO report said. The GAO report said that what we need to do a better job, and I agree with this, is to make sure that our programs are aligned. And that is precisely what we are trying to do right now.

That is what I did when I was in State government. Imploding stovepipes, making sure that all of the different agencies that had skin in the game were working together. And that is why we are working with the Department of Housing and Urban Development, with HHS, with Department of Education, Department of Agriculture.

Mr. KINGSTON. Right now, after reading that, you don't see any of the 47 that should be eliminated?

Secretary PEREZ. Well, actually a number of them have already been eliminated, and I would be happy to go through that list with you after this hearing. Because some of the funding streams that were identified in that report are no longer funded.

But I think what is really important to understand is, again, there are five different funding streams for veterans. I think those funding streams reflect a very careful consideration by Congress that veterans have unique needs. And so, when a veteran comes into an American Job Center, Mr. Chairman, he is not asking for a funding stream. He is asking for a job.

And that person may have a disability, and Congress has correctly, in my judgment, said we need a program—

Mr. KINGSTON. Well, let us just say—what I would like, and I am just cutting you off to try to stay in the 5 minutes. But what I would like to receive from you is of the 47 and of the GAO report,

what your response to it is and which of the 47 you are willing to work with us to consolidate. And which ones you feel really work and which ones aren't.

Because I think where we also could find some agreement is which ones are the best because if one is really turning out trained people that can transition into jobs, maybe we should put more money in that and starve one that is not as efficient.

[The information follows:]

CONSOLIDATING EMPLOYMENT AND TRAINING PROGRAMS

In his State of the Union address, President Obama laid out a vision based upon the principle of opportunity for all. Key parts of that vision are helping people get the skills they need to succeed in good-paying jobs and ensuring that America's employers have the skilled workers they need to successfully compete in the global economy. On January 31, 2014, the President issued a memorandum tasking Vice President Biden to conduct a review of our nation's employment and training programs to make this vision a reality, building on what we do right, fixing what we need to do better, and taking best practices to scale. This review will be guided by the principle of job-driven training for workers. The review will result in an action plan that identifies steps to make sure that Federal programs deliver on the promise of job-driven training for workers and for employers. The Department of Labor is working with the Vice President and our colleagues at the Departments of Commerce, Education, Health and Human Services and other agencies to implement this review and identify new, more cost-effective ways to help more Americans on a faster path to valuable skills and credentials, good jobs, and meaningful careers.

While the programs identified in GAO's report may serve similar populations with some overlapping eligibility and shared goals to help individuals obtain and retain good jobs and become self-sufficient, many have other unique goals and outcomes. This does not mean each of the 47 programs is duplicative. In fact, GAO's report does not recommend that training and employment programs be consolidated. Rather, it recommends better collaboration across programs. As GAO has suggested, the Administration is focused on improving coordination and alignment in the workforce system, through the Vice President's review of programs as well as through other initiatives such as the Workforce Innovation Fund. However, the Department of Labor has also sought to reduce program duplication and overlap while ensuring that programs are meeting the needs of vulnerable populations.

Of the Department of Labor's programs identified in the GAO report on multiple employment and training programs, two have been eliminated: Community-Based Job Training Grants and the Veterans Workforce Investment Act programs. The 2015 President's Budget also includes some proposals to consolidate employment and training programs in a smart and targeted way that protects the most vulnerable populations. For example, the Budget proposes to consolidate the Trade Adjustment Assistance for Workers and the WIA Dislocated Workers programs into a single New Career Pathways program that will streamline the delivery of training and reach as many as one million displaced workers a year with a set of core services. In addition, the Budget proposes to eliminate the Women in Apprenticeship and Non-Traditional Occupation program (WANTO) instead making representation of women a priority in the Department's broader Registered Apprenticeship program. We have also proposed to transfer the Senior Community Service Employment

Program to the Department of Health and Human Services, Administration for Community Living, placing the program in an agency that shares the mission of helping older Americans maintain their independence (both economic independence and living arrangements) and actively participate in their communities.

MINIMUM WAGE REQUIRED ON MILITARY BASES

I want to ask another question on military bases that recently under this administration's executive order, they are going now to minimum wage if you have a fast food restaurant on a military post. But I understand, in addition to that, the Department of Labor is starting to require that restaurants pay an additional health and welfare benefit of \$3.81 an hour, which would mean if you are working on a military post in a McDonald's or whatever that the starting wage would be \$13.91, which would be extremely difficult to sell competitive tacos or hamburgers or fried chicken paying that. And that would defeat the purpose of having those on military posts for our soldiers and their families.

Secretary PEREZ. The executive order indicated that——

Mr. WOMACK. I am so sorry, Mr. Secretary. Mr. Kingston is out of time. We are joined by——

Mr. KINGSTON. He gives no mercy to anyone. So we are in the same boat.

Mr. WOMACK. Not even myself. We are joined by other members of the subcommittee, and in the order, provided that I have got this correct, Ms. Lee of California will be next. Then we will go, I think, to Mr. Harris of Maryland and then to Mr. Honda of California.

So, at this time, I am going to give the floor to Ms. Lee of California.

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

Good morning, Mr. Secretary.

Secretary PEREZ. Good morning.

Ms. LEE. Sorry, and I apologize for being late. But I have got three committees going, one of which is the Budget.

Secretary PEREZ. Three places at once is a little hard. [Laughter.]

TARGETING JOB TRAINING PROGRAMS

Ms. LEE. Budget Committee, where we are really talking about a lot of the budget, your budget.

But thank you again for being here and for your tremendous leadership.

Although our economy is slowly improving, investments in job training—and I am working on an amendment to the budget now to increase to the President's level job training funding. But job training, which really puts individuals in a place where they can work at a living wage, job training programs are key to lifting individuals and families out of poverty, addressing the growing inequality in America, and creating the opportunity for all.

Now the unemployment rate, and I know we are all pleased to see the unemployment rate down to 6.7 percent in, I believe, February. But again, in the African-American community 12 percent, and 8.1 percent in the Latino community. So there are still nearly 4 million Americans who have been unemployed for 27 weeks or longer, and these numbers unfortunately are disproportionately represented in and by minority populations.

There are several job training programs that could potentially benefit communities with high unemployment, but I am having a very difficult time identifying programs that directly address the

unemployment disparity, which we have asked for, for a report on that.

So can you briefly describe some of the job training programs contained in the President's budget that are really targeted toward communities that significantly—that have a significantly higher unemployment disparity, the way you target and how that is done?

Then, secondly, as it relates to poverty language, in 2014, and I want to mention—read this language. I was able to include poverty language that says, "Poverty is far too prevalent in the United States. Congress and the administration should work together to implement policies, interagency efforts, and support proven anti-poverty programs that reduce the existence of poverty and the suffering associated with it."

So these interagency efforts should be well coordinated between Labor, Education, Health and Human Services, given the unique responsibility that these agencies, yourself—your agency—share really in training our workforce, educating our future, and ensuring the health and well-being of all Americans. So how do you envision this coordination internally within the Department of Labor and with other agencies to fulfill the goal the Congress set, and that is to support efforts to reduce poverty?

Secretary PEREZ. That coordination that you describe is critical. It is when I was talking to the chairman before, the alignment is about making sure that we are working together to make sure that the DOL funds are spent appropriately and with our colleagues, whether it is HUD, whether it is USDA, all the other agencies that have training dollars, that we are spending these dollars synergistically in demand-driven context. And that is exactly what we are doing.

When I was in Maryland, I co-chaired a workforce subcabinet. We brought together all the agencies that had skin in the game to make sure that we were aligning our investments, and that is what we are doing right now in the Federal Government. And I participate in those meetings with regularity.

In terms of your first question about the investments that enable us to get at many communities that are in specific need, Congresswoman Roybal-Allard described an investment through our TAACCCT program in Los Angeles, that I went and visited. It is a remarkably exciting development, and the people who are in that community college, who are overwhelmingly students of color, are going to benefit remarkably from that.

Our Ready to Work grant, which is a grant designed to get the long-term unemployed back to work, is designed to take innovative practices from across the country and lift them up through our grant making. In addition, work we are doing in the My Brother's Keeper initiative is designed to get at young men of color.

Also, Congress has consistently provided support for former offenders, which is very important because former offenders are people who have significant barriers to getting back into the workforce. And I am very proud of the work that we have done there. And frankly, I think one of the most important things we could do to address these issues of disparities is raising the minimum wage because you know the data on that.

Ms. LEE. Yes, 900,000 people lifted out of poverty. How about Job Corps?

Mr. WOMACK. The gentlelady's time has expired.

Ms. LEE. The second time around. Okay. We will talk about that later.

H-2A AND H-2B LABOR CERTIFICATIONS

Mr. WOMACK. The gentleman from Maryland, Mr. Harris.

Dr. HARRIS. Thank you very much.

Secretary PEREZ. Good to see you again, sir.

Dr. HARRIS. Good to see you, Mr. Secretary. I have got three areas of questions.

First, we talked about briefly yesterday H-2A and H-2B issues. The employers complain the department has not completed the processing applications for labor certifications within the statutory deadlines. Will you commit to us today that you are doing whatever you can to improve the processing times and eliminate the processing backlogs for H-2A and H-2B, which is so vital to, as you know, people on the Eastern Shore?

Secretary PEREZ. I think we have spoken to many of the same employers there over the years. And I very much appreciate their plight, and I want to make sure that we do our level best to process their applications in a timely fashion. And that is what we are working toward, understanding that we also need to take our role in terms of protecting American workers seriously.

Dr. HARRIS. But there is a statutory—

Secretary PEREZ. And I look forward to working with you on that.

[The information follows:]

QFR NOISE

MSHA's existing noise standard requires that engineering and administrative controls be used to reduce a miner's noise exposure. The standard provides further that a miner's noise assessment be made without adjustment for the use of any hearing protector. MSHA discussed hearing protection in the preamble to the Agency's noise standards (See: 64 FR 49583-49586) finalized in 1999. Based on the rulemaking record, MSHA concluded that personal hearing protectors do not provide hearing protection to miners comparable to the protection provided by engineering and administrative controls.

American National Standards Institute (ANSI) S12-19, Measurement of Occupational Noise Exposure, is the industry standard on collecting noise data and specifies that measurements need to be taken outside the hearing protection device.

Dr. HARRIS. There is a statutory deadline. So if you could do whatever you can.

MSHA STANDARD FOR OCCUPATIONAL NOISE

Secretary PEREZ. I look forward to working with you.

Dr. HARRIS. Second one, second issue is—the last two are kind of wearing a physician's hat—you know, the MSHA, the Mine Safety and Health Administration's standard for occupational noise. Curiously enough to me, you know, there is measuring equipment that can measure decibel sounds that actually are near the eardrum, which seems to make sense to me. I mean, if you want to measure the effect on someone's hearing, you have got to measure near the eardrum.

And yet MSHA still insists on using measurement techniques that don't take into account the fact that you can have ear protection on. Just curious, why? Why wouldn't you use the best technology to actually identify high-decibel noises as close to the eardrum as possible?

Secretary PEREZ. Well, if you have ideas on how we can do a better job of protecting worker safety, because worker safety is job one in the MSHA context, and if you think that there is a better mousetrap to be built, I want to listen to you and figure out if we can do that.

Dr. HARRIS. We are going to continue that dialogue.

Secretary PEREZ. Look forward to it.

SILICA STANDARDS

Dr. HARRIS. And the other thing is—the last issue is the silica standards. This is puzzling to me because, as you know, the permissible exposure level, which Congress passed in 1968, were put in place for silica. Since that time, the number of deaths from silica, silica-related deaths has decreased 93 percent.

Now I would say, you know, as a physician, that is as close to a cure of a problem you are ever going to get. I mean, you actually decreased the deaths due to silicosis by 93 percent, and OSHA, by its own admission, still monitors people, employment workplaces, where those old levels are exceeded. And yet they are now having—they are suggesting a 50 percent further reduction in the silica levels, safe silica levels.

Now, viewing that you had a 93 percent reduction under the old standards. The old standards aren't yet fully enforced. What is the justification to going to a lower standard if you achieve 93 percent success rate with the old standard?

Secretary PEREZ. Well, Congressman, the fact is that in 2010, more workers died from silicosis than from explosions, collapses, or being caught in running equipment or—

Dr. HARRIS. What is the absolute number? I know that you know it.

Secretary PEREZ. I don't know what the absolute number is, but I will be happy to get it for you. I can tell you that the proposed rule is expected to save close to 700 lives and prevent more than 1,600 cases of silicosis each year. That is a lot of lives.

[The information follows:]

DEATHS RESULTING FROM SILICA EXPOSURE

From 2006 through 2010, silicosis was listed as the underlying or a contributing cause of death on over 600 death certificates in the United States.¹ However, most deaths from silicosis go undiagnosed. In addition, this number does not account for the totality of deaths related to silica exposures in the workplace. Many silica-related deaths are caused by chronic bronchitis, emphysema, lung cancer, kidney disease and other diseases.

While the number of silicosis cases has declined over the past several decades, the fact remains that, in 2010, silicosis was listed as the underlying or contributing cause of death on 101 death certificates in the United States.² This means that, in 2010, more workers died from silicosis than from explosions, being caught in or crushed in collapsing materials (such as collapse of trenches and structures), or being caught in running equipment or machinery.³

Since 2008, OSHA has vigorously enforced the current silica standard through a National Emphasis Program and has initiated other efforts to work with industry to meet the current standards. However, OSHA's current permissible exposure limits (PELs) for silica are antiquated and do not adequately protect worker health. The peer reviewed risk assessments performed by OSHA, NIOSH and others show that exposure at the current general industry PEL still results in highly significant risks of dying of lung cancer, kidney disease, silicosis, or other lung diseases. Risks are even higher at the PEL for construction and shipyards, which is over twice as high as the current general industry PEL. Simply enforcing the current standard will not substantially reduce or eliminate this significant risk.

¹ Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999-2010 on CDC WONDER Online Database, released 2012. Data are from the Multiple Cause of Death Files, 1999-2010, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program. Accessed at <http://wonder.cdc.gov/mcd-icd10.html> on June 10, 2013.

² *Id.*

³ Bureau of Labor Statistics (2010). Fatal occupational injuries by event or exposure and major private industrial sector, All United States, 2010.

Dr. HARRIS. Well, that would be stunning. That would be stunning since in 2007, there were less than 200 deaths from silicosis.

Secretary PEREZ. Well, I actually—

Dr. HARRIS. So we are going to have to get our figures straight here because—

Secretary PEREZ. Well, we will have a conversation about that because I have great confidence in the work that our folks at OSHA are doing. Secretary Perkins in '37 talked about the dangers of silicosis. So we have known about this for a long time, and we worked with NIOSH and other experts to make sure that we had an evidence-based approach to this.

We have a very inclusive process, and there are still hearings taking place. And so, folks who share your perspective have had ample opportunity to weigh in and will continue to do so.

Dr. HARRIS. So, but if you could just again fill me in, why wouldn't OSHA attempt to vigorously enforce the current standard before extending—before reducing that standard?

Secretary PEREZ. Well, OSHA does—

Dr. HARRIS. I just don't understand. Unless it is to just go after, and let us face it. This is always a possibility that the newest use for silica-containing substances is hydraulic fracturing. I get it. I get that the administration doesn't want us to do hydraulic fracturing. The world gets it. Unfortunately, Mr. Putin gets it.

Why would you choose again, and you may have to, you know, fill me in on what other data is. But why would you reduce the standard when you are not enforcing the current standard? And by OSHA's own admission, there are many times when the current standard is not—

Secretary PEREZ. We are enforcing the current standard, sir. And people like Alan White, a 48-year-old foundry worker who is about to die—

Mr. WOMACK. The gentleman's time has expired.

Secretary PEREZ [continuing]. Are the things that motivate me in this area because he is dying—

Dr. HARRIS. What motivates me are thousands of Ukrainians who might die because of it.

Mr. WOMACK. The gentleman's time has expired.

Let us go to Mr. Honda from California.

Mr. HONDA. Thank you, Mr. Chairman.

And welcome, Mr. Secretary.

Secretary PEREZ. Good to see you again, sir.

Mr. HONDA. And congratulations for the confirmation of Chris Lu.

Secretary PEREZ. He is very excited.

MINIMUM WAGE

Mr. HONDA. A couple of questions. One is raising the minimum wage. I just want to say that the executive order was great, and hopefully, it is a behavioral model for the rest of the country. Although \$10.10 could be low, but it is a great start for us.

The concern I have about the Federal contract workers is that under the contract, we may have subcontractors. And the question is those subcontractors when they hire folks, are they subject to making sure that their workers are getting minimum wage?

Secretary PEREZ. Actually, right now, the regs are being drafted right now to clarify all of the questions that have been asked in connection with the application of the executive order.

Mr. HONDA. So, hopefully, those who are engaged with the Federal contract as subcontractors, that when they sub, that their workers are getting at least the minimum, and it would cover that.

PROMOTING PAY EQUITY

The promoting pay equity. The administration's effort to close that wage gap by prioritizing pay equity for women and minorities is laudable. And could you talk a little bit more about this thing called pay secrecy, the issue where companies or supervisors or bosses telling their folks you can't share your information as to your salary or because for different reasons. What is the position of the department on that?

Secretary PEREZ. Pay secrecy is best illustrated in an example. The first pay-equity bill the President signed was the Lilly Ledbetter Act, she learned about the fact that she was getting treated unfairly in the pay context because a coworker—well, actually, I don't know who it was. Somebody dropped an anonymous note on her desk.

And the reason that was the only way she knew about it was because there was a prohibition on sharing that salary information. And as a result of that, she had no way of knowing. And it was not until this anonymous note that she started to have awareness.

And so, that is. I think, as vivid an illustration as I can describe of the problem that many people have put forth, and this is a problem that the Paycheck Fairness Act, which I understand there may be a vote in the next few days in the Senate, will seek to address.

Mr. HONDA. Will the bill address pay secrecy?

Secretary PEREZ. Yes.

Mr. HONDA. Great.

Ms. DELAURO. Would the gentleman yield for just one second here?

Mr. HONDA. If I get it back from you.

Ms. DELAURO. Okay. No. [Laughter.]

Mr. HONDA. Sure. Go ahead.

Ms. DELAURO. Just that the paycheck fairness bill does include that, and I just—as I said at the outset, and Mr. Secretary, I would love to have the opportunity to talk to you or ask you if there is any consideration of an executive order to prohibit the Government contractors from retaliating against their employers—employees who disclose salary information? This works to the detriment of women every single day, including an article in the New York Times on it was a Federal contractor.

But New York Times, a young woman found out in the jewelry business that she was paid less than the gentleman working next to her. He had no experience. And that has led to a furor in the industry.

Mr. HONDA. Hopefully, that gets included in the discussion and in the rulings.

DATA DISAGGREGATION

On data disaggregation, I have a district that is probably the only majority of minority on the mainland besides Hawaii. So the question is asking about disaggregating data on the Affordable Care Act enrollments across the country to find out who is getting what and disaggregating the data on minorities, especially Asian Americans because under Asian Americans, there is a lot of sub-groups that sometimes gets overlooked.

On the education portion where we talk about academic achievement gaps and where people make policies or make determinations based upon statistics, the Bureau of Labor Statistics, hopefully, you can direct them to disaggregate all that information because I think that the model minority myth is still out there on Asian Americans, and I think there is a lot of communities under Asian Americans, AAPI, are still in great need and should be subject to considerations such as affirmative action enrollment.

Mr. WOMACK. The answer will have to come at a different time. Those few seconds that you gave to Ms. DeLauro turned into about 30 seconds, and so, Mr. Honda, I am sorry.

Mr. HONDA. That is okay.

Ms. DELAURO. I will make it up, Mr. Honda. I promise you.

Mr. HONDA. It was well worth it. Thank you.

Mr. WOMACK. That is assuming there is another round, which—

Ms. DELAURO. I always make that assumption.

Mr. WOMACK [continuing]. Appears in doubt. Let us go to Mr. Stewart from Utah.

Mr. STEWART. Again, thank you, Mr. Chairman.

GOVERNMENT REGULATION

Mr. Secretary, I think you sense my passion on some of these things and the defense of the family farm in previous questions. I want to kind of get the bigger picture from you, if I could, and I think illustrate what I think this conversation is really about.

But before I do, let me ask, have you ever been a business owner or worked in the private sector as a business leader?

Secretary PEREZ. Have I been—I have been on the boards of non-profits who have been doing a lot of work in communities, and I speak to business owners every week to make sure I am informed.

Mr. STEWART. But have you, yourself, ever been a business owner?

Secretary PEREZ. No, I haven't, sir.

Mr. STEWART. Okay. You know, I think this is just this entire hearing is a great example of, I think, the conflict that we are engaged in at this time as a society and as a people. And it is this question of what is the proper role of government?

How do we—how powerful do we want our government to be? How much reach do we want our government to have? And how do we find a balance between what we recognize is a public good, because there is a role in government in regulating some of these industries, and on the other side is liberty and business interests.

Again, the family farm. There is nothing more American than a family farm. And I think if you wanted to start a sagebrush rebel-

lion, then advocate that we have OSHA inspectors step onto family farms, true family farms.

I have two beautiful daughters. I want for them the same thing that you and other Members here want. I want them to be treated fairly. I want them to be paid fairly. I don't want them to be harassed. That is not a partisan issue, and I am afraid sometimes it appears or the narrative that some would like to create is that it is.

COST OF SILICA RULE

I would like to follow up on Dr. Harris' questions, if we could, and that is the new rule for silica, which is quite concerning to me. Just review very quickly. It used to be the current standard 100 micrograms per cubic meter, 250 for a construction industry. The new rule would propose to reduce that to 50 micrograms for all industries.

But before a rule like that should be implemented, I think there are two criteria, and this is not in my estimation. This is, of course, the standard that it would be economically and technically feasible. And I don't know that it would be either one of those, that this new rule would meet that standard.

Let me talk about economically very quickly. The Government's estimate said it would be \$637,000,000, the cost to implement this. If it turned out to be only that cost, it would be the first time in the history of the universe that the Government accurately predicted the cost of a new rule or regulation rather than underestimating it.

Business puts it at something between even as high as \$5,450,000,000 annually. Let us split the difference and say it is \$2,500,000,000. Does that seem to be economically feasible as to implement this rule at that kind of cost?

And let me follow up with that. The REINS Act, which the Congress has supported, which would allow Congress to have input to any rule that had a greater economic impact than \$100,000,000, does that seem like a reasonable standard? If something had greater economic impact than that, that Congress should have some input to that?

Secretary PEREZ. Well, sir, there has been a tremendous amount of input into the rulemaking process in the silica context. We were asked, I think, on two different occasions to extend it. We acceded to it. We are in the middle of 2 or 3 weeks' worth of hearings as we speak, and we are hearing from a wide array of stakeholders, including a number of stakeholders who are providing their views that are very, I think, similar to the views that you are expressing here.

As I said before, regardless of whether it is the 503 process, which Governor Ridge described as a very inclusive process, or the silica process or the process in any other regulatory context, we hear from everyone. We build into the process enough time to make sure that we are making informed judgments, which is why, again, we extended the deadlines and the hearing more than once.

Mr. STEWART. I appreciate that.

Secretary PEREZ. And so, we will continue to do that because that is what we need to do. And the rulemaking procedures help us to make these informed decisions.

Mr. STEWART. And let me go quickly because I have got the yellow light. I hope you will consider the actual cost of this, which could be billions of dollars, billions of dollars, and the impact that is going to have on people who are trying to, as we talked earlier, about getting jobs and creating jobs.

TECHNICAL FEASIBILITY OF SILICA RULEMAKING

The second thing I want to ask you, though, as to technical feasibility. And that is that there are some indications that even in the laboratory setting, you can't measure accurately 50 parts. And if you can't measure it, how can we possibly enforce a rule that is based on that?

Secretary PEREZ. Well, again, we are hearing a lot of different feedback during the rulemaking process. We heard feedback precisely to the contrary of what you just said, and we are processing all of that feedback in a very methodical way.

Mr. STEWART. Thank you.

Mr. WOMACK. We continue in round two. We still have the following Members in this order to have questions in round two—Mr. Honda, Mrs. Roby, Mr. Kingston, and Mr. Harris.

The chair yields to the gentleman from California, Mr. Honda.

WORKER MISCLASSIFICATION

Mr. HONDA. Thank you, Mr. Chairman. I get my cookies early.

Mr. Secretary, under worker misclassification, one of the issues I hear most about when I talk to folks in construction is that the work in the building trades, this is an issue about misclassification. A lot of the workers are misclassified as independent contractors by their employer, which really makes it easier for them to underpay employees, shift the normal tax burden from employer to employee and then deny them benefits.

The GAO estimates that the misclassification cost to the Federal Treasury is about \$2,720,000,000 every year in unpaid Social Security, unemployment, and income taxes. So the employee misclassification really undermines the labor protections that working people have a right to. So can you describe what the department is doing on the regulatory end to crack down on this behavior, and how the \$14,000,000 that the department requests, what they will do with that and how they will achieve the addressing of the misclassification?

Secretary PEREZ. Well, thank you for your question. And misclassification of employees as independent contractors is a very serious issue, and it is one that we take very seriously. I hear from employers with regularity who tell me, and here is one anecdote that comes to mind.

One builder who is building homes, and he is playing by the rules. And yet another homebuilder continues to undercut him, because he pays all of his employees under the table because he calls them independent contractors. The one who plays the rules can't compete.

So there are really three sets of victims. There is the worker him or herself whose wages are undercut. There is the employer who is playing by the rules who now has to either cheat or not get the bid. And then there is the Treasury. When you do this, you don't pay workers' comp taxes. You don't pay unemployment insurance taxes, and the Treasury suffers.

And that is why we have been very aggressively involved in attacking this challenge. And it is a challenge that certainly occurs in the building industry, but it is certainly by no means limited to the building industry. And that is why we have folks in our Wage and Hour Division who are actively involved in these investigation and enforcement efforts.

Mr. HONDA. What do you think that the \$14,000,000 investment will return back to the Treasury? We lose about \$2,700,000,000. What do you think the return might be on that?

Secretary PEREZ. Well, there have been numerous studies that have documented the loss to taxpayers and the overall loss as a result of misclassification. This investment in the 2015 budget in my mind is a drop in the bucket compared to the return that you can get to taxpayers and/or employers and the workers. You know, the three victims will all benefit when we are making sure that there is a level playing field.

Mr. HONDA. So we should be able to hear about the responses in terms of the equity in the work field and also the return on our investment by the end of next year then?

Secretary PEREZ. Sure. And we are also working with a number of States on this issue. We have signed MOUs with 14 States, and they run the gamut—Iowa, Washington State, Utah, Louisiana—because this issue is not an issue that is just a Northeast issue, a Southwest issue. This issue is everywhere.

And you know, this is a corner you can't cut as an employer. It is cheating, and we need to stop it.

Mr. HONDA. And hopefully, that Members of the House of Representatives will take some time to go out there and check and be partners with you to make sure that this investment is going to have a return for our coffers.

So thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. WOMACK. The gentlelady from Alabama, Mrs. Roby, is recognized.

ON-THE-JOB INJURY STATISTICS

Mrs. ROBY. The information that I have says in Alabama there were 4.8 total injuries per 100 full-time employees in 2012. In Georgia, there were 3.7 total injuries per 100 full-time employees. And the national average is 5.2. This came from the Bureau of Labor Statistics.

I understand you said you have differing data than that. This is the most current, most public information available. And so, it is my hope that you will get that which seems contrary to this to us in a very expedited manner.

But with that said, I want to move on.

Secretary PEREZ. Happy to get it to you because that data, it is 4.6 percent in—4.6 in Alabama. And the same industry across the country is 3.0. So we are happy to get you that data.

[The information follows:]

INJURY AND ILLNESS STATISTICS

Worker injury and illness data supports the decision to focus on the auto supply parts industry. The most recent Bureau of Labor Statistics (BLS) data show that the auto parts supplier industry in Alabama has a higher injury and illness rate—4.6 per 100 full-time workers—than the same industry nationwide which had a rate of 3.0 per 100 full-time workers.

Mrs. ROBY. Yes, absolutely, because it is contrary to what we have.

UNION OFFICIALS ACCOMPANYING OSHA INSPECTORS

Secretary PEREZ. Okay.

Mrs. ROBY. But that being said, another issue that runs parallel from a timing standpoint to this REP is the newly or new interpretation of the walk-around rule. And in February of 2013, OSHA stated that employees not subject to a collective bargaining agreement can designate an outside individual affiliated with a union to accompany OSHA agents on their inspections, even to open shops.

This is a pretty extraordinary thing. Under this policy, a person who is not associated with neither the Government nor the employer can gain access to a private business even against the wishes of the owner. This policy, and this is the most concerning part, was not the result of a promulgated rule subject to public comment, the normal transparent process. Instead, the interpretation of—this new interpretation from OSHA is in response to an inquiry from a union.

I don't think you and I would disagree at all that the law has not changed. The law is the same. The definitions are clear. What we are in disagreement about is how the practice is being implemented. I mean, according to news reports in other parts of the country, this practice is taking place.

So here is my question, and it is just a yes or no question. I want to know if it is your position that OSHA could unilaterally bring along to an inspection, based on this REP in a right-to-work State in a nonunionized business, bring along a union representative for that inspection?

Secretary PEREZ. Congresswoman, there are a number of faulty premises to your question.

Mrs. ROBY. Yes or no?

Secretary PEREZ. I am unable to answer your question because your premise is incorrect. This is not a change in OSHA's policy, and I am happy to get you the 1971 regulation that—

Mrs. ROBY. I have got the regulation. What I have also got is an interpretation letter—

Secretary PEREZ. Sure.

Mrs. ROBY [continuing]. From OSHA, from the inquiry of a union representative that wanted to know may one or more workers designate a person who is affiliated with a union without a collective bargaining agreement at their workplace or with a community or-

ganization to act as their personal representative? And the answer is yes.

And so, my understanding of the law, which is this, the representatives authorized by employees shall be an employee of the employer. That is clearly in contrast to the letter of interpretation. And what I need to know is can we expect during this 2-year period, when OSHA is coming into these auto plant manufacturers whether or not OSHA will unilaterally designate a union representative to join that inspection? That is the question.

Secretary PEREZ. Ma'am, OSHA is not unilaterally designating anyone. And again, this is not new and nor do when a representative comes in, nor do they come in against the wishes of the employer. There was an example—

Mrs. ROBY. But wait, sir. We have—I mean, there are examples across this country—and the light is yellow. But according to National Review, union organizers are showing up at OSHA inspections of open shop businesses that have been targeted by the country's second-largest union. I mean, there are stories after stories across this country where this is happening.

And so, again, I want to know what your position is, as the Secretary of Labor, whether or not we can expect to see union representatives show up at a nonunionized business to walk along with your inspectors in a place where the employees have not designated that person as their representative? And I look forward to getting your answer in writing.

Secretary PEREZ. And I look forward to providing answers and clarifying what the law actually is and the longstanding policy. [The information follows:]

WALKAROUND INSPECTIONS

Allowing non-employee third-party representatives to accompany OSHA inspectors on inspections is not a new OSHA policy. Section 8(e) of the OSH Act provides that “[s]ubject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace . . . for the purpose of aiding such inspection.” Allowing a third party representative to accompany OSHA compliance officers on an inspection is solely related to protecting workers by achieving an effective and thorough health and safety inspection and consistent with the law and long-standing OSHA regulations.

Mr. WOMACK. The chair now recognizes the gentlelady from California, Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. First of all, I want to thank Congresswoman Rosa DeLauro for giving some examples of how dangerous it is for children working in agriculture. And I will submit my question for the record on that particular issue.

ADDRESSING DOMESTIC VIOLENCE IN THE WORKPLACE

Ms. ROYBAL-ALLARD. I strongly have been supportive of President Obama's recent directive requiring Federal agencies to develop policies for addressing domestic violence in the Federal workplace. I have two parts, a two-part question.

Does the Department of Labor have a timeline for implementing these new policies to address domestic violence issues, as directed by the President? And second, as part of its new policy, will the De-

partment of Labor consider extending economic protections to its employees in three areas—allowing domestic violence survivors to take up to 30 days of unpaid leave each year to receive medical care, seek legal assistance, attend court proceedings, and to get help with safety planning?

Second, protecting employees from being fired because they were harassed by their abuser.

And third, if requested and reasonable, making workplace safety precautions or job-related modifications.

Secretary PEREZ. This has been—we have been very heavily involved. And I want to, first of all, thank you for your leadership on this issue because it is a critically important issue.

We convened a workgroup of human resources professionals and folks in our department to address this, and the answer is, we expect to have a final plan before the end of this fiscal year. So the fiscal year ends end of September. We will get it done before then.

As it relates to the second part of your question, we have an absence and leave policy that allows employees to take up to 30 days or more in circumstances such as the ones that you have described. I have worked in this area quite a bit, and these are unconscionable situations when they arise. What we want to do is make sure we prevent them from arising. And if, God forbid, they do arise, that we have very clear, unequivocal, fair policies for responding so somebody who is a victim doesn't get victimized a second time.

Mr. WOMACK. Does the gentlelady yield back her time?

Ms. ROYBAL-ALLARD. I yield back.

Mr. WOMACK. The gentleman from Georgia, the subcommittee chairman, Mr. Kingston.

Mr. KINGSTON. Thank you, Mr. Chairman.

Mr. Secretary, okay, going back to the military installations.

MINIMUM WAGE ON MILITARY BASES

Secretary PEREZ. Sure.

Mr. KINGSTON. With that health and welfare benefit and the minimum wage increase, it would mean \$13.91 an hour. And I don't know how a fast food restaurant would be able to keep the doors open at that.

Secretary PEREZ. I am happy to have our Wage and Hour Division meet with you to explain the application of this in military installations and everywhere else because we have been working vigilantly to put the regs forth to prepare for this, and this question or other questions that you may have, we are more than willing to sit down with your staff and walk you through every question, concern that you have.

Mr. KINGSTON. Okay. We don't necessarily have to meet as long as we could get prompt answers.

Secretary PEREZ. Certainly.

Mr. KINGSTON. So, you know, as long we get the information from you. I want to pursue it.

Secretary PEREZ. Sure. No, I am happy to do that for you, sir.

INCLUDING SURVEYORS UNDER DAVIS-BACON

Secretary PEREZ. Okay. Surveyors have for 50 years not been included under the labor law of Davis-Bacon, but recently, you in-

cluded surveyors in there and did not have public comment for the professional surveying community to respond to it.

Secretary PEREZ. I am sorry. I wasn't sure if you were——

Mr. KINGSTON. I wasn't sure if you were ready, or she was ready, or we were ready.

Secretary PEREZ. I think you are referring to a memorandum. The Wage and Hour Division has historically recognized that members of survey crews performing primarily physical and manual labor on a Davis-Bacon project on the site of the work immediately before or during the construction may be laborers and mechanics subject to the Davis-Bacon Act.

And the memorandum that you are talking about constitutes the rearticulation of when and whether Davis-Bacon Act labor standards should apply to members of survey crews. And we have certainly heard some of the concerns that you have mentioned, and we have extended an offer for them to come and sit down with us to discuss this so that we can understand their concerns and clear up any confusion.

Mr. KINGSTON. Okay, so you are saying there has not been a change in the policy, which I think would give some comfort——

Secretary PEREZ. That is correct. There has not.

Mr. KINGSTON. Okay. So there may be some misunderstanding?

Secretary PEREZ. Correct. And that is why we are in the process of meeting with them to address the concerns that they have.

HOT GOODS ORDER

Mr. KINGSTON. Okay. I want to get back to wage and hour violations on the farm. What are the kinds of tools you have for violations, and does it include the hot goods order?

Secretary PEREZ. Well, the hot goods order, the tools we have on—let me just make sure. We were talking before about family farms and safety. I assume you are now pivoting to a different line of questioning? Okay. I just want to make sure I am answering your questions.

Hot goods, that provision has been part of the toolkit for wage and hour enforcement for decades, and the application of hot goods is very fact specific. And hot goods are not simply on farms, but they are also—they have been used historically in the garment industry as well. And the use is very much fact specific, depending on the particular circumstances of the case.

Mr. KINGSTON. So a farmer who is maybe having a first violation probably would not have hot goods, the hot goods order?

Secretary PEREZ. Well, again——

Mr. KINGSTON. It would be more—unless it is just completely based on the facts and not an interpretation then?

Secretary PEREZ. Well, again, it is important to understand that the department does not have the authority to issue a hot goods order, and every case is very fact specific. If somebody is a repeat offender, they may be more likely to have a hot goods order. But there are sometimes egregious violations in a particular circumstance even if they are a first offender—that may call for it.

And so, it is impossible to give a generalization of when that would be used, other than to say that they are very fact specific, and they are used carefully and sparingly, and they have been used

carefully and sparingly in Republican and Democratic administrations.

Mr. KINGSTON. Yes. I think this has to do with a court case in a farm in Oregon in 2012, and what I would like to do is we will get very specific on it. Because I think that what our farmers want to make sure is that you are not using it for a first-time violator or you are not using it subjectively. And that is what the big question really is.

Secretary PEREZ. I look forward to your questions.

Mr. KINGSTON. Okay.

Mr. WOMACK. Dr. Harris will wrap up round two.

Dr. HARRIS. Oh, thank you.

REVISED SILICA REGULATIONS

Okay. Let me just go ahead and just go back briefly to the silica. You said that the new levels would prevent 5,000 deaths. Is that the number?

Secretary PEREZ. No, I said 700, sir.

Dr. HARRIS. Oh, 700 deaths over what period of time is that?

Secretary PEREZ. The proposed rule is expected to save close to 700 lives and prevent more than 1,600 cases of silicosis each year.

Dr. HARRIS. Seven hundred deaths per year?

Secretary PEREZ. Right.

Dr. HARRIS. The CDC says there are only 150 deaths from silicosis. Is that new math?

Secretary PEREZ. No, sir. Again—

Dr. HARRIS. Or I mean, CDC—you are aware the CDC says there are 150 deaths per year from underlying contributive causes of silicosis. How in the world can you prevent 700 when there are only 150 a year?

Secretary PEREZ. Well, actually, we have looked at a wide array of data that suggests that I think your numbers—and again, this may be the same thing we had with Congresswoman Roby.

Dr. HARRIS. Okay. Let me give you Mr. Reich's—let me give you Robert Reich's numbers from a Department of Labor handbook on silicosis claims there are 250 deaths a year.

Secretary PEREZ. Well, again, you know—

Dr. HARRIS. Okay. Do you disagree with Secretary Reich, that assessment?

Secretary PEREZ. Sir, I don't have the data at hand, and I am happy to sit down with you and—

Dr. HARRIS. But I do have the data at hand, and we are going to have to figure this out because if there are 150 deaths a year, I don't know how you prevent 700 a year. It is just I don't understand the math.

WALK-AROUND INSPECTIONS

Let me go back to the gentlelady Mrs. Roby from Alabama's question because I don't get this. You know, when I read the code that deals with these walk-around inspections from OSHA, the code is quite clear that you are supposed to have someone there when it is reasonably necessary to conduct an effective and thorough physical inspection.

When is a union representative reasonably necessary to conduct an effective and thorough physical inspection of a nonunionized workplace?

Secretary PEREZ. Well, people who—

Dr. HARRIS. Can you just give me an example? Just give me an example of, well, why you have to pick a union—why there is no other person in the world, why you don't have the expertise, why your inspector is not an expert enough?

Secretary PEREZ. Let me clarify something, Congressman. We are not picking the experts. Someone, an employee says, "I would like this person to come." We are not—we don't have a Rolodex of people that we call in and say, "Hey, come on with us. We are doing an inspection."

Somebody will say this is an issue, and we would like to have someone come in. And it may—and sometimes it is somebody who is a translator because—

Dr. HARRIS. Who is the compliance safety and health officer?

Secretary PEREZ. The compliance safety and health officer—

Dr. HARRIS. Yes, what is that job? Is that a Department of Labor person?

Secretary PEREZ. Well, that can be a Department of Labor person, but it also can be people, people in unions, people in non-unions that have—

Dr. HARRIS. In a nonunion workplace who—okay.

Secretary PEREZ. Well, if I could just finish, sir?

Dr. HARRIS. Has the Department of Labor compliance safety and health officer ever brought in or found it reasonably necessary to bring a union person in to conduct an effective and thorough physical inspection of the workplace in a nonunionized workplace?

Secretary PEREZ. I don't know—

Dr. HARRIS. For example, let us just leave it for Department of Labor employees. You are responsible for them, right?

Secretary PEREZ. Well, sir, I don't—well, sir, I don't have all of the data on every time somebody has made a request.

Dr. HARRIS. That is another place you don't have data. Good. Okay. But you certainly have those anecdotal cases to present to the committee. I wish you would have anecdotal cases on something like this.

Secretary PEREZ. Well, actually, I could give you one if you would allow. But if you won't, that is fine, too.

Dr. HARRIS. So let me ask. An anecdotal case? No, I don't want anecdotal cases. I understand—I am a physician. I understand the importance of or unimportance of anecdotal cases.

COMPLIANCE SAFETY AND HEALTH OFFICERS

But the code says that in the judgment of the compliance and safety—so the compliance safety and health officer, how often is that person a Department of Labor employee?

Secretary PEREZ. In what context, sir?

Dr. HARRIS. In the context of deciding who is going to be reasonably necessary to conduct this inspection.

Secretary PEREZ. Are you reading—I am just trying to get a handle on what you are—

Dr. HARRIS. I am reading Federal regulation 29 CFR 1903.8(c).

Secretary PEREZ. Okay. I think I may have that.

Dr. HARRIS. I assume you have no quarrel with—well, I guess it is statute. Well, I don't know.

Secretary PEREZ. Sir, it is a 1971, I believe, regulation.

Dr. HARRIS. Okay. Whatever it is, that is your regulation. That is the regulation under which you operate. So is the compliance—

Secretary PEREZ. That is an OSHA inspector.

Dr. HARRIS. So it is an OSHA inspector.

Secretary PEREZ. Yep.

Dr. HARRIS. So the OSHA inspector is making the determination that a unionized—that a union person is reasonably necessary to conduct the effective and thorough physical inspection? Let us just clarify that for the committee. It is one of your employees making that determination under that code or regulation?

Secretary PEREZ. No, under that code, sir, as well, a person can come in who—an employee can request to have somebody else come in. Again, because the—

Dr. HARRIS. But the compliance safety and health officer has to make the determination. It has to be in their judgment. Is that correct? Am I reading this regulation correctly?

Secretary PEREZ. Well, again, and what we do in those circumstances is we are not reaching out to other people in response to a request from somebody for information—

Dr. HARRIS. But the compliance safety and health officer has to determine that that individual is necessary.

Secretary PEREZ. If I could—

Mr. WOMACK. We are out of time for Dr. Harris.

Dr. HARRIS. Thank you very much.

Mr. WOMACK. And finally, the gentleman from Tennessee, Mr. Fleischmann.

Mr. FLEISCHMANN. Thank you, Mr. Chairman.

And Mr. Secretary, it is good to see you today.

I apologize to the committee. As you know, we are running concurrently in other subcommittees, Mr. Chairman, and this is my third subcommittee today.

WIA 15 PERCENT SET-ASIDE

Mr. Secretary, the 15 percent allocation authorized by the Workforce Investment Act was reduced to 5 percent in fiscal year 2012. The change forced the Tennessee Department of Labor to discontinue funding for several important programs like the Jobs for Tennessee Graduates program, the Career Readiness Certificate program, and the Apprenticeship Grants program, just to name a few. This was intended to be a one-time reduction to promote accountability and timely use of funds, and we have since seen a great progress in both of these areas.

The Fiscal Year 2014 Consolidation Appropriations Act did partially restore the set-aside to 8.75 percent. I am curious as to why there is a reluctance to return the set-aside to 15 percent. The department carried that language for over a decade.

Instead, the 2015 budget request proposes holding that plus-up at 8.75 percent and again includes proposals to increase support for the Workforce Innovation Fund and create other new WIA grant programs.

My questions are this. Why create new grant programs when States know best how to serve their own populations, and secondly, does the department believe that the set-aside should be restored to the authorized 15 percent level, or does it intend to be a permanent reduction in order to continue to have WIA funds to spend at the Federal level on new programs and demonstrations, sir?

Secretary PEREZ. Thank you for your question, Congressman.

As a former State labor secretary, I am very familiar with the 15 percent funds, and in an ideal world, we would love to be at a 15 percent level. But the reality is that we are having to live within our means. The actual reality is that the only way to get there would be to take money from the formula grants that goes to local governments.

So you end up in a situation where you are pitting the State against the local authorities, and that is the challenge that we confront. You mentioned the Workforce Innovation Fund. That is, I think, somewhere in the \$50,000,000 category, and that has also catalyzed a lot of innovation.

And even if you took that money, that would only get you up to maybe 9 percent. And I think that money has been well spent in the Workforce Innovation Fund. We just had a conference last week with all of the grantees, including a number of States who have done great work in that area.

And so, I think there is a very important role for this set-aside, and the dilemma that we have here in the austere times that we find ourselves in, is I don't think that we can afford to take more money that would go to the local workforce investment boards, which is what you would, in effect, I think, have to do in order to move that percentage up further.

We are certainly committed to working with you to identify ways to continue to move in the right direction. And we are better off now than we were a couple of years ago on this set-aside fund, and I look forward to working with you to figure out how we can do more.

VOLUNTARY PROTECTION PROGRAM

Mr. FLEISCHMANN. Thank you.

Mr. Secretary, I would like to ask you about the Voluntary Protection Programs, or VPP, sir. There are 42 VPP sites in Tennessee, with several in my district, including DENSO Manufacturing, IP Royal Blue Chip Mill, and Energy Solutions Bear Creek Operations.

VPP promote effective worksite-based safety and health. VPP management, Labor, and OSHA establish cooperative relationships at workplaces that have implemented a comprehensive safety and health management system. A 2007 study found that VPP saved private industry \$300,000,000 in 1 year, with an additional \$59,000,000 in savings realized by Federal Government worksites as a result of increased productivity and reduced compensation costs.

My understanding is that funding for VPP has decreased dramatically since 2010. My question is why funding for this program has decreased when it has had such a great rate of return, and where have those funds been reallocated, sir?

Secretary PEREZ. Well, I am a strong believer in the VPP program as well. It has been a very successful program. Regrettably, there are a number of successful programs—I think a lot of the set-aside program in your previous question has been a very useful program, and as a result of the shrinking of the DOL budget, a number of things have been lessened.

But we are certainly maintaining that program, and I certainly appreciate your support for it.

Mr. WOMACK. The gentleman's time has expired.

The chair would like to inquire of the Secretary how much time—this hearing was scheduled until 12:30 p.m.. May we inquire as to what the Secretary's availability is in the event that there would be a third round of questions?

Secretary PEREZ. I will make myself available if you—I think I have to be gone at—

Mr. WOMACK. Staff has maybe a different answer?

Secretary PEREZ. 12:45 p.m. is when I have to leave, or 12:40 p.m., I think, because I have a meeting at 12:45 p.m.

Mr. WOMACK. Okay. Then pursuant to the chair's prerogative, here is how we are going to proceed. We are going to go to a third round of questions, and I am going to limit the timeframe to 2 minutes, to 2 minutes to be respectful of the Secretary's time.

OFCCP OMSBUDMAN

So, Mr. Secretary, I want to go back, at the risk of sounding like a broken record on OFCCP, but I want to ask you about the ombudsman's program. Because in past administrations, there has been an ombudsman's program, and I understand that that program is no longer available. So is that true? If there is such a program, can you explain it to me?

Secretary PEREZ. Well, my understanding is that if there are people who have concerns about what is happening, they have a number of ways in which they can express those concerns to the Department of Labor, including—

Mr. WOMACK. What are those? What are some of those ways?

Secretary PEREZ [continuing]. The Office of the Inspector General is—

Mr. WOMACK. Do you get a lot of those complaints?

Secretary PEREZ. I would have to ask the IG what they get complaints about, and what the—

Mr. WOMACK. Are you aware of any complaints?

Secretary PEREZ. I have never asked that question. So I really can't give you an educated answer about whether—

Mr. WOMACK. As the leader, would that be something that you would be interested in, to see if maybe the heavy hand of Government is I hate to use the word "abusive" in its prosecution of its duties, but maybe a little heavy-handed?

Secretary PEREZ. Well, I will reiterate what I said a number of times to you, Congressman, which is if you have examples of employers who feel like they were mistreated, please bring it to our attention because I want to know.

Mr. WOMACK. I am asking about—I am just picking your brain on leadership. In common leadership, is that a principle that would

guide? Is that something that would be important to you as a leader of an organization?

Secretary PEREZ. Well, we have always made sure that we have processes that are inclusive and transparent and that people have opportunities to let us know what they believe and—

Mr. WOMACK. But you are not aware of—you are not aware of any specific cases, anecdotal evidence that the agency is heavy-handed in the prosecution of its duties?

Secretary PEREZ. Well, again, I have been in this line of work for a couple dozen—for quite a while, sir. And when a place like OFCCP or the Civil Rights Division comes in and says we are initiating an investigation, you know, people don't throw a party. I understand that, and that is why we have to be professionals.

Mr. WOMACK. I recognize that. So for the attempt, my thanks.

Ms. DeLauro.

Ms. DELAURO. Thank you, Mr. Chairman.

For the record, in the recent case, it was at the request of the Spanish-speaking workforce at a janitorial services company that asked that there be a union representative there to help to interpret for them. So that is just for the record.

SILICA EXPOSURE

In addition to that, silica is classified as a carcinogen. Inhalation of tiny particles causes silicosis, a severely disabling lung disease that can lead to death. OSHA's exposure limits for crystalline silica were adopted in 1971 and have not been updated.

Whether or not we are talking about 700 lives or 150 lives, these are people's lives. It is their families' lives. If they cannot be protected on the job and lose their life, we have a moral responsibility to do something about that.

Last week, a group of construction workers came to see me. They talked about working in construction, covering their mouth and their noses with masks and yet, at the end of the day, being caked with dark powder on their faces, in their eyes, and in their nostrils because the masks didn't work to block the tiny silica particles. No one told them about the dangers of the carcinogenic cloud of silica dust that enveloped them all day long.

They made a very simple and a very reasonable request. Pass the rule to make their industry safer. Preventive measures, prewetting the surface of construction material to limit silica dust, along with access to better training and safety equipment so that, in fact, they might be able to survive.

I am begging you, Mr. Secretary, tell us that you are moving forward with a lifesaving rule because millions of low-wage workers across the country continue to risk their lives, and when we know how to prevent the painful and unnecessary disease.

My final question to you, Mr. Secretary, is about the Job Corps. The gentleman will yield his time to me, he has told me.

Mr. WOMACK. Stand by, Ms. DeLauro. We have a solution.

Because he has to leave the hearing, I am going to recognize the chairman of the subcommittee, who has expressed to me—

Ms. DELAURO. I am always happy to yield to the chairman of the subcommittee, Mr. Kingston.

Mr. WOMACK. He wants to yield his time to you. So that is how—and we will come back to you.

Ms. DELAURO. I thank the gentleman very much.

Mr. WOMACK. The gentleman is recognized.

Mr. KINGSTON. And Mr. Secretary, I am going to submit a couple of questions for the record because I would just like them to kind of move up the food chain. One of them is about your webinars to union folks, but not doing webinars on fair labor standards for small businesses because I think they would need to know that.

JOB CORPS ENROLLMENT

Mr. KINGSTON. But I want to yield to Ms. DeLauro the balance of my time, and having a representative from our local Job Corps in the audience here, Mr. Mel Gaines, I think it would be timely to get your Job Corps question in.

Thank you.

Mr. WOMACK. The gentelady is recognized.

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

Last year, several of us worked extremely hard to restore funding to the Job Corps that had been cut due to sequestration. We were successful in those efforts, and now Job Corps is back on a better path. It is fulfilling its mission to serve disadvantaged young people.

We know that most centers are ready, and they want to enroll more students. And this year, I will continue to push for the necessary support for what this program needs.

I have seen the good work done by Job Corps centers in Connecticut. No investment is more critical than investment in education for our young people.

Mr. Secretary, can you tell us about the department's plans to continue investing in this program going forward? And will you be able to get back to the number of student slots that we have had in the past?

Secretary PEREZ. Well, our goal is to get up to 37,000 this year. We are—and that is what the budget permits. And as we ramp up to that, the methodology we are going to be using is to allocate those to the high-performing Job Corps sites because you are absolutely right, and there has been bipartisan support for this soon to be 50-year-old initiative.

We have been working hard because we fell short at the Department of Labor, and we recognize that. We have been working vigilantly to implement all the recommendations from the Inspector General, and we are making tremendous progress. And, I have been visiting Job Corps sites. I will be at one this weekend in Iowa.

There are tremendous opportunities for people, and we are going to continue to make sure that everyone that we can get enrolled, is enrolled.

Ms. DELAURO. And we will invite you to come to New Haven, Mr. Secretary.

Secretary PEREZ. I would love to.

Ms. DELAURO. Thank you.

Mr. WOMACK. Mrs. Roby, your 2-minute drill is underway.

UNION OFFICIALS ACCOMPANYING OSHA INSPECTORS

Mrs. ROBY. So there is a rule. The representatives authorized by employees shall be—"shall," mandate—be an employee of the employer. And then, sir, there is an exception to the rule with the "however" that says, "If in the judgment of the compliance safety and health officer," which is the OSHA employee, "good cause has been shown as to why accompaniment of a third party who is not an employee of the employer"—by the OSHA employee makes this determination, not the employee, because there is a "shall" in there—"such as an industrial hygienist or a safety engineer is reasonably necessary," and then you know the rest of the rule.

So my question is this. Based on that is very clear. I mean, it couldn't be more clear. There was an issue with Professional Janitorial Services, the largest nonunion janitorial company in Houston, which on three recent occasions SEIU representatives accompanied Federal safety inspectors to examine the cleaning sites.

And then there was also union representatives from the Service Employees, the SEIU—now let me see where this was, in Philadelphia at the international airport. So those two examples.

My question is very simple. Do you endorse those activities?

Secretary PEREZ. In the Houston case, they provided translation services, and they went in on the first day with the consent of the employer. On the second—

Mrs. ROBY. My yellow light is on. Can you just tell if you endorse the activities under the law that—

Secretary PEREZ. Sure. Again, we enforce—we enforce the law, and part of the law allows people to ask—

Mrs. ROBY. The OSHA employee. An OSHA employee to make that determination.

Secretary PEREZ. Part of the law allows an employee of a company to request to OSHA that a third party come in.

Mrs. ROBY. That is not what this says.

Secretary PEREZ. Yes, it is. Ma'am, I am happy to send you our interpretation of it. I think we are—I am happy to do that for you because I—

Mrs. ROBY. It is very unclear.

Thank you.

Mr. WOMACK. You are out of time. Mr. Honda.

Mr. HONDA. Again, thank you, Mr. Chairman.

And I just want to make a quick comment about Job Corps, invite you to San Jose, visit us, and would like to yield to Rosa DeLauro, my colleague.

ADDITIONAL WAGE HOUR INSPECTOR

Ms. DELAURO. Thank you very, very much, my colleague.

Mr. Secretary, your request, and I will dispense with—this is about Wage and Hour Division. Your request includes an increase of \$41,000,000 to hire an additional 300 investigators at the Wage and Hour Division. Can you tell the subcommittee about the different activities these funds would support, in particular how those activities would benefit low-wage workers?

Secretary PEREZ. Well, we have 7 million covered workplaces, 135 million covered workers, 8 major statutes, including the Family

and Medical Leave Act and other critical statutes. We saw in the most recent settlement in Philadelphia involving the tipped workers almost \$7,000,000 in settlement.

Congressman Honda asked a very important question about the issue of misclassification. The U.S. Treasury is a victim in the misclassification context. Workers are victims, and employers who play by the rules are victims.

And when you have 135 covered workers in 7 million covered workplaces, you have a lot of work to do. And what we are attempting to do is make sure that we put earned money in people's pockets because the folks who were working at Chickie & Pete's in Philadelphia had earned that money, but they didn't get it.

Ms. DELAURO. And Pete was taking it. And Pete was taking their money.

Secretary PEREZ. Somebody else was taking it. And employers who play by the rules come to me constantly saying there is not a level playing field here, and I don't want to cheat. I am not a cheater. But I know that the guy down the road is cheating, and you have got to help us.

And I think we should.

Ms. DELAURO. The point is, is that the tipped pool, which the owner was illegally retaining approximately 60 percent of the tipped pool. It was Pete's tax.

Thank you, Mr. Chairman.

Mr. WOMACK. And finally, Dr. Harris of Maryland—2 minutes.

Dr. HARRIS. Thank you very much.

SILICA EXPOSURE

Let me just follow up very briefly here about the silica issue because, as the ranking member says, look, there is no one on this committee who wants people to die from anything that is unnecessary, and any suggestion of that is, honestly, I am offended by the suggestion that some people on the subcommittee think that safety is not important.

But that person she talked about who has the ill-fitting mask that doesn't block out the dust or has that much dust exposure, they are actually exceeding the current level. Is that right?

Secretary PEREZ. I don't know the facts of the situation, sir, to be able to comment.

Dr. HARRIS. But currently, you are supposed to wear a tight-fitting mask during those—is that right? I mean, your inspectors go onsite, and if they see a person who is not wearing a mask properly, it is not tight-fitting, it is not an adequate mask to block dust, I am assuming that that doesn't follow the standard right now?

I mean, I guess that is the purpose of you don't say that you can't have more than 100 micrograms per cubic meter of silica dust. You just say you have to protect the workers from it. Is that right?

Secretary PEREZ. We are trying to keep workers safe. We are trying to make sure that they don't—silicosis, that silica inhalation doesn't cause lung cancer.

Dr. HARRIS. Sure. I get it.

Secretary PEREZ. It doesn't cause renal disease.

Dr. HARRIS. I get it.

Secretary PEREZ. It doesn't cause COP. It doesn't cause silicosis, which are all causes of death.

Dr. HARRIS. So why aren't you just enforcing the current law before you—why aren't you enforcing the current law, which actually is—again, a 93 percent decrease in the number of silicosis. That is tremendous.

Oh, my gosh, that is almost—that is as close to a cure as you are going to get. Why—

Secretary PEREZ. But, sir, I mean, you are a physician, and you are a very good one, and so I am confident that you understand that people who inhale silica contract silicosis and die from it, contract lung cancer and die from it.

Dr. HARRIS. Sure. But people who lose their—

Secretary PEREZ. Contract renal disease and die from it.

Dr. HARRIS. But people who lose their jobs, people who become unemployed also lose their—

Secretary PEREZ. Contract COPD and die from it. So your numbers need to reflect that.

Dr. HARRIS [continuing]. Lives and have adverse health effects, Mr. Secretary. Don't you realize that? That unemployment leads to adverse health effects as well.

Thank you very much.

Mr. WOMACK. The gentleman's time has expired.

Mr. Secretary, you have been very generous with your time today.

Secretary PEREZ. My pleasure, sir.

Mr. WOMACK. We have gone 10 minutes over the allotted time for the hearing this morning. We wish you the very best, and we appreciate your testimony here today.

Secretary PEREZ. Thank you. Thank you for your time and courtesy, sir.

Mr. WOMACK. I declare this hearing closed.

[The following questions & answers were submitted for the record:]

Questions for the Record from Chairman Kingston

OSHA PROPOSED CRYSTALLINE SILICA RULE

Mr. Kingston: CDC set its “recommended exposure limit” for respirable crystalline silica in 1974. Having known about the scientific basis for CDC’s recommendation for 30 years, what precipitated the Department’s proposal to reduce its own “permissible exposure limit” now?

Mr. Perez: In December 1974, OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) (39 FR 44771, Dec. 27, 1974) based on the recommended exposure limit and other recommendations in the Centers for Disease Control and Prevention (CDC)/National Institute for Occupational Safety and Health (NIOSH) criteria document. In the ANPRM, OSHA solicited “public participation on the issues of whether a new standard for crystalline silica should be issued on the basis of the [NIOSH] criteria or any other information, and, if so, what should be the contents of a proposed standard for crystalline silica.” However, OSHA did not pursue rulemaking for crystalline silica at that time; instead, OSHA focused its efforts on other rulemaking priorities that addressed exposure to lead, asbestos, cadmium, and other workplace hazards.

After the ANPRM was published and while OSHA was addressing these other workplace hazards, the scientific evidence regarding health effects related to respirable crystalline silica developed substantially and it became clear that the health risks from exposure were more serious than was thought in the 1970’s. Notably, as information developed during the 1980s and 1990s, crystalline silica was recognized as a human carcinogen. In June 1986, the International Agency for Research on Cancer (IARC) evaluated the available evidence regarding crystalline silica carcinogenicity and concluded that it was “probably carcinogenic to humans.”¹ An IARC working group met again in October 1996 to evaluate the complete body of research, including research that had been conducted since the initial 1986 evaluation. IARC concluded that “crystalline silica inhaled in the form of quartz or cristobalite from occupational sources is carcinogenic to humans.”²

¹ International Agency for Research on Cancer. (1987). Monographs on the evaluation of carcinogenic risks to humans: Silica and some silicates. Geneva, Switzerland: World Health Organization. 42:1-239.

² International Agency for Research on Cancer. (1997). Monographs on the evaluation of carcinogenic risks to humans: Silica, some silicates, coal dust and para-aramid fibrils. Geneva, Switzerland: World Health Organization. 68:41-242.

In 1991, in the Sixth Annual Report on Carcinogens, the U.S. National Toxicology Program (NTP) concluded that respirable crystalline silica was “reasonably anticipated to be a human carcinogen.” NTP reevaluated the available evidence and concluded, in the Ninth Report on Carcinogens, that “respirable crystalline silica (RCS), primarily quartz dust occurring in industrial and occupational settings, is known to be a human carcinogen, based on sufficient evidence of carcinogenicity from studies in humans indicating a causal relationship between exposure to RCS and increased lung cancer rates in workers exposed to crystalline silica dust.”³

In 1994, OSHA launched a process to determine which safety and health hazards in the U.S. most needed attention. A priority planning committee included safety and health experts from OSHA, NIOSH, and the Mine Safety and Health Administration (MSHA). The committee reviewed available information on occupational deaths, injuries, and illnesses and held an extensive dialogue with representatives of labor, industry, professional and academic organizations, the States, voluntary standards organizations, and the public, including the 1974 CDC criteria document and the scientific evidence subsequently published. The National Advisory Committee on Occupational Safety and Health and OSHA’s Advisory Committee on Construction Safety and Health (ACCSH) also recommended that OSHA update its Silica standard. OSHA added rulemaking on crystalline silica to the Agency’s regulatory agenda in October, 1997 (62 FR 57755, 57758, Oct. 29, 1997).

The Agency held a series of stakeholder meetings in 1999 and 2000 to get input on the rulemaking and initiated and completed Small Business Regulatory Enforcement Fairness Act (SBREFA) proceedings in 2003. OSHA met with ACCSH in 2009 to discuss the rulemaking and receive their comments and recommendations. Throughout the rulemaking process, OSHA continued to review the mounting evidence of health effects and assess the risk associated with respirable crystalline silica exposure. OSHA completed the initial peer review of the draft Health Effects analysis and Preliminary Quantitative Risk Assessment in 2010; published the proposed rule in 2013; and held public hearings on the proposed rule in 2014.

Mr. Kingston: OSHA estimates that the new silica standard will cost the construction industry alone \$511 million to implement, however, industry estimates are many times that amount. What was the process OSHA used to develop these estimates? Does the Department agree that OSHA should conduct a review of industry cost estimates and incorporate any valid costs that were not included in its original assessment into a revised cost estimate?

³ National Toxicology Program. (2000). Silica, Crystalline Silica (Respirable Size). In: Report on Carcinogens. 9th ed. Research Triangle Park. P. III-44 to III-46.

Mr. Perez: As described in the preamble to the standard, OSHA's estimated cost of \$511 million for the construction industry to comply with the proposed silica standard consists of two major cost components: (1) the costs of engineering controls, work practices, and, as needed, respiratory protection to meet the proposed PEL of 50 $\mu\text{g}/\text{m}^3$; and (2) the costs of meeting the proposed rule's ancillary provisions—exposure monitoring, medical surveillance, training, and regulated areas/access control plans.

As part of the process of preparing a final rule, OSHA will consider carefully all comments submitted for the record, including industry cost estimates, as well as evidence presented in the recent public hearings (as well as post-hearing materials and briefs subsequently submitted). The Agency will focus on any and all comments and evidence submitted that would affect costs. After reviewing comments on all aspects of OSHA's cost estimates, OSHA will revise its preliminary estimates if appropriate. In addition, OSHA will update its cost estimates to reflect the most recent data available on employment in affected occupations and industries, on wages, and on other unit costs. Finally, of course, the Agency will modify costs to reflect whatever rule changes are made in going from the proposed to the final rule.

Mr. Kingston: OSHA held a Small Business Advocacy Review (SBAR) panel in 2003 on its draft standards for silica but didn't publish the proposed rule until 2013. According to OSHA, it used the information it gathered in 2003 to develop its assessment of small business impacts in the Preliminary Initial Regulatory Flexibility Analysis contained in the proposed rule. The Committee is concerned that OSHA is using decade-old, pre-Great Recession data to assess impacts on small businesses and develop less burdensome regulatory alternatives as required by the Regulatory Flexibility Act. The Committee understands that the Department has asserted that it fulfilled its statutory obligation to hold an SBAR panel, however, given that the industries affected by this proposed regulation have significantly changed since 2003, will OSHA conduct another SBAR panel to allow small businesses to provide updated input on the potential impacts of the proposed rule based on current data and industry practices? If not, what is the Department's rationale for relying on the input it received in 2003 to develop its assessment of small business impacts?

Mr. Perez: 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, including data from and following the Great Recession, in preparing the final rule.

There is only one major new industry—hydraulic fracturing—that was not included in the SBREFA Panel. Although the hydraulic fracturing industry did exist at the time, no Small Entity Representatives from that industry came forward to participate in the SBREFA Panel. OSHA devoted a lengthy appendix to the

Preliminary Economic Analysis to assess the impacts of the proposed rule on the hydraulic fracturing industry, and representatives of this industry commented to the OSHA record and attended the three weeks of public hearings.

Small entities from all affected industries were invited to provide written comments and to participate in the public hearings on the proposed silica rule; many of them did. OSHA believes that the record of the comments received to date and the transcript of the hearings show that the major issues with respect to technological feasibility, costs, economic feasibility and possible alternatives to the proposed rule represent largely the same issues that the Panel addressed in 2003. To the extent there may be new issues, 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 use this information to update all data as the rulemaking process goes forward.

OSHA PROPOSED ELECTRONIC DATA RULE

Mr. Kingston: OSHA's proposed rule to "Improve Tracking of Workplace Injuries and Illnesses" would require businesses with over 250 employees to electronically submit injury and illness records to OSHA which would then be made publically available. OSHA currently has access to these records through its inspection process.

Does OSHA agree that some injuries and illnesses that employers will be required to submit are not a reflection of the effectiveness of an employer's safety program?

Mr. Perez: An injury or illness that is caused, or is contributed to, or is significantly aggravated by an event or exposure at work, must be recorded on the OSHA form (assuming that it meets one or more of the recording criteria and does not qualify for an exemption to the geographic presumption). This approach is consistent with the no-fault recordkeeping system OSHA has adopted, which includes work-related injuries and illnesses, regardless of the level of employer control or non-control involved. A note to the Purpose section of the recordkeeping rule (29 CFR §1904.0) states: "Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits."

Mr. Kingston: How will posting an employer's injury and illness records provide the public with important information about companies' workplace safety records?

Mr. Perez: OSHA believes that the online posting of establishment-specific injury and illness information will encourage employers to improve workplace

safety and health. Using data collected under the proposed rule, employers, employees, researchers and other interested members of the public could compare injury rates and hazards at comparable establishments.

Mr. Kingston: Is OSHA committing itself to ensuring the accuracy of these records before they are posted in a publically available forum? Does OSHA have any estimates of how much that would cost?

Mr. Perez: The OSHA injury and illness recordkeeping system is dependent on self-reporting by the employer. Section 1904.32, (29 CFR §1904.32) of the recordkeeping rule requires the employer to certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the data are correct and complete. In addition, the data collected will be in an electronic format. The system will contain a series of edit checks that will verify basic logic rules pertaining to the data. These checks already exist in our OSHA Data Initiative collection system and the SOII.

Mr. Kingston: How will OSHA protect the security of this data and ensure that it isn't being used for any illegal or anti-competitive practices?

Mr. Perez: The publication of specific data elements will be consistent with, among other requirements, the protective provisions of the Freedom of Information Act (FOIA), the Privacy Act, and the Trade Secrets Act, as well as specific provisions within 29 CFR Part 1904.

Mr. Kingston: Will OSHA establish procedures to allow companies to correct any erroneous data after it is posted?

Mr. Perez: Yes. Procedures to allow companies to request correction of erroneous data posted on OSHA's website are already in place. On December 21, 2000, Congress passed Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001. The Act required OMB to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies. OMB's guidance, which was published on February 22, 2002, required all Federal agencies to: 1) Issue information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the Department; 2) Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the Department that does not comply with the OMB guidelines; and 3) Report to the Director of OMB the number and nature of complaints received regarding compliance with the OMB guidelines, including how the complaints were resolved. The Department of Labor's information quality guidelines are available online at:

<http://www.dol.gov/oasam/ocio/programs/InfoGuidelines/informationqualitytext.htm>

Mr. Kingston: Will OSHA allow companies to provide any context to the data so that the public can make more informed and appropriate conclusions about the employers' safety records?

Mr. Perez: The proposed rule was limited to the collection of data already recorded on the OSHA injury and illness recordkeeping forms. It did not include a proposed collection of additional employer comments. However, OSHA is still analyzing the comments it received on the proposal, and will take account of those comments in issuing any final rule.

OSHA "WALK-AROUND" INSPECTIONS

Mr. Kingston: Section 8(e) of the OSH Act provides that, "[s]ubject to the Secretary's regulations, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace . . . for the purpose of aiding such inspection." 29 U.S.C. § 657(e). The October 6, 1970 Senate Report declared that an authorized representative of employees would "aid the inspection" and "provide an appropriate degree of involvement of employees. . ." See S. REP. No. 91-1282, 91st CONG., 2D SESS. (1970), *reprinted in* 1970 U.S.C.C.A.N. 5177, 5187.

Based on the letter and intent of the law, how does OSHA interpret that "one or more workers" may designate a person to act as their personal representative for OSH purposes?

Mr. Perez: A "personal representative" is not the same as a "representative of employees" for walk-around purposes. The "one or more employees" portion of OSHA's February 21, 2013 letter that you quote refers to a personal representative of an employee for purposes such as filing a complaint, participating in a conference, obtaining exposure records or other OSHA purposes.

Mr. Kingston: In OSHA's own explanation in the February 21, 2013 letter for interpretation, "a person affiliated with a union without a collective bargaining agreement or with a community representative can act on behalf of employees as a walkaround representative so long as the individual has been authorized by the employees to serve as their representative."

Why would "authorized by the employees" be interpreted as anything less than all employees?

Mr. Perez: The term “authorized by the employees” does not refer to any number or portion of employees. While all of the employees at a worksite may agree on a representative, there is no requirement in the statutory language that they do so. Moreover, not every hazard to which employees are exposed and which OSHA must inspect affects all the employees in a workplace. Therefore it is possible that only the workers exposed to the hazard may choose to authorize a representative. Accordingly, OSHA's guidance complies with Section 8(e) in that it directs the compliance officer to make every effort possible to see that the interests of employees affected by the health and safety hazards being investigated are represented in the walk-around.

Mr. Kingston: Does OSHA’s letter of interpretation provide that one employee can designate a “representative” to accompany OSHA inspectors on a walkaround inspection? If yes, how does that comply with section 8(e) of OSH allowing for an authorized representative of employees in the plural?

Mr. Perez: There is no requirement that the employee representative(s) be chosen by a majority of employees. Nor has OSHA ever said that a single employee could designate a walk-around representative.

Mr. Kingston: The practice including in our own representative democracy is for such representatives to be designated through the democratic process, as in designated by at least a majority of a group.

Why would OSHA allow a “representative” of a group of employees to be designated by a minority as small as one individual, possibly against the wishes of the group as a whole?

Mr. Perez: There is no requirement that the employee representative(s) be chosen by a majority of employees. Nor has OSHA ever said that a single employee could designate a walk-around representative.

Mr. Kingston: What standards are compliance officers required to apply when determining whether a designated representative is “reasonably necessary to the conduct of an effective and thorough physical inspection?”

Mr. Perez: As explained in the February 21, 2013 letter, OSHA interprets “reasonably necessary” to mean when an individual will make a positive contribution to a thorough and effective inspection. It is ultimately the judgment of the compliance officer to determine whether an individual will make a positive contribution to the inspection process. For example, a compliance officer could determine a representative will make a positive contribution if his/her experience and skill are useful due to his/her experience in evaluating similar workplace conditions in a different plant. There are also instances where non-English speaking workers want a representative who is fluent in both their own language

and English, something that will facilitate more useful interactions with the CSHO during the inspection.

Mr. Kingston: What processes has OSHA instituted to ensure that such standards are applied consistently and appropriately by each compliance officer throughout all OSHA regions?

Mr. Perez: OSHA has an extensive and thorough Field Operations Manual (FOM) that provides guidance on this issue to compliance officers. Compliance officers are required to use the FOM for guidance in all of their inspections and receive training on the content and execution of the FOM.

Mr. Kingston: Who is liable for the third party representative while they are accompanying the compliance officer on an inspection? The company? The federal government? How has OSHA ensured that the company being inspected and the Department of Labor cannot be litigated against in the event of accident or injury to a third party representative during an onsite inspection?

Mr. Perez: It is the Area Director's responsibility to determine that an inspection may be conducted without exposing the CSHO to hazardous situations and to procure whatever materials and equipment are needed for the safe conduct of the inspection. OSHA would expect any third-party to comply with the same requirements OSHA imposes on its own CSHOs.

Mr. Kingston: Regardless of its legal interpretation, why did OSHA change its long-standing practice of not having third party representatives accompanying compliance officers on inspections through a letter of interpretation instead of through a rule-making process that would allow for a public comment period?

Mr. Perez: The question does not accurately describe OSHA's practice regarding third party representatives. Allowing non-employee third-party representatives to accompany OSHA inspectors on walk-around inspections if the compliance officer believes their presence "is reasonably necessary to the conduct of an effective and thorough inspection" was not a new policy. 29 C.F.R. § 903.8(c).

DEFINITION OF FIDUCIARY PROPOSAL

Mr. Kingston: The Department continues to move forward on a re-proposal to redefine the definition of "fiduciary" under the Employment Retirement Income Security Act of 1974 (ERISA).

What is the timeline for further action and how will you ensure that any future proposed rulemaking does not endanger the retirement security of low and moderate income savers who need and want access to affordable investment advice?

Mr. Perez: We have not made a decision on the proposed rulemaking, and we would not make any decisions before we had listened to all sides, as we have committed to do. The President has been clear that he is committed to strengthening retirement security for all Americans. We think it is important that individuals are able to get the information they need to make their retirement investment decisions. We welcome input from those who want to help us improve this marketplace before we make any decisions.

Mr. Kingston: In 2013, the United Kingdom implemented rules banning financial advisors from receiving what we in the U.S. call revenue sharing payments from funds, precisely what the DOL's original definition proposal would have done.

In the wake of the U.K. rule, an "advice gap" has emerged. The head of the U.K.'s regulator, Martin Wheatley, has said "it is a concern that people with portfolios below [\$80,000] to [\$160,000] are not getting the same service they were getting." In fact, in direct response to the new rule, one of the four leading U.K. banks has completely shut down its retail investment advice business and restricted advice to individuals to those with at least \$800,000 in assets.

Will less advice help solve America's retirement savings crisis? Similar to the U.K. rule, the original rule would have banned indirect payments. Does the Department share the concern about the negative effects?

Mr. Perez: We have not made a decision on the proposed rulemaking, and we would not make any decisions before we had listened to all sides, as we have committed to do. We think it is important that individuals are able to get the information they need to make their retirement investment decisions and we welcome input from those who want to help us improve this marketplace before we make any decisions. The UK rule bans commissions altogether, something we have repeatedly stated has never been our intention.

Mr. Kingston: The EBSA division of the DOL is looking to expand the definition of a fiduciary to cover more activities and providers. This expansion will impact broker-dealers when speaking with their customers about their investments.

Has DOL consulted with SEC and FINRA officials to learn about the extensive licensing, oversight and regulations already applicable to broker dealers and consider their perspectives on whether additional DOL rules are necessary or advisable?

Mr. Perez: ERISA and the securities laws serve important complementary, but distinct, purposes. In July 2013, we renewed our Memorandum of Understanding (MOU) with the Securities and Exchange Commission (SEC) on sharing

information on enforcement, policy and regulatory projects related to retirement and investment matters. In line with standard process, DOL continues to consult with the SEC, consistent with its status as an independent agency. In addition to regular, ongoing staff-level discussions, I have spoken to Chair White on several occasions since I became Secretary. We've also spoken directly to the Financial Industry Regulatory Authority (FINRA) on a staff level.

OSHA

Mr. Kingston: Please provide an update on the status of OSHA's collaboration with USDA's Food Safety and Inspection Service and CDC's National Institute for Occupational Safety and Health on USDA's proposed rule to modernize the way poultry is slaughtered.

Mr. Perez: OSHA has participated in the interagency review process with regard to USDA's proposed rule affecting poultry processing.

MSHA COAL DUST RULE

Mr. Kingston: In its April 2014 report on mine safety, GAO wrote that a panel of experts asserted that personal protective equipment and administrative controls could reduce individual miner's exposure to respirable coal dust but that these approaches would not help mine operators comply with MSHA's exposure limit because they don't lower the level of coal dust in the mine environment. The experts also noted that all approaches may not be effective in all types of mines. In furthering the goal of protecting miners' health, why would these approaches be excluded from the tools operators can employ to comply with MSHA's exposure limits?

Mr. Perez: Section 201(b) of the Mine Act states that the purpose of the dust standards is "to provide, to the greatest extent possible, that the working conditions in each underground coal mine are sufficiently free of respirable dust concentrations in the mine atmosphere...." Section 202(h) of the Mine Act states that the: "Use of respirators shall not be substituted for environmental control measures in the active workings."

Environmental controls are the most protective means of controlling the generation of respirable coal mine dust at its source. Using environmental controls to reduce the amount of dust in the mine atmosphere is the best way to reduce miners' exposure and ensure a healthful work place for miners, as the law dictates.

Mr. Kingston: The report also notes that the Departments of Labor and HHS generally concurred with the findings and did not provide formal written comments. Will MSHA propose to revise the accepted approaches mine operators

can use to meet exposure limits to include personal protective equipment and administrative strategies?

Mr. Perez: MSHA published a final rule on lowering miners' exposure to respirable coal mine dust on May 1, 2014. As noted above, the Mine Act states that the use of respirators shall not be substituted for environmental controls. MSHA believes that using environmental controls to reduce the amount of respirable coal mine dust miners are exposed to is the best way to ensure a healthful work place for miners, as the law dictates. The effectiveness of administrative controls requires oversight to ensure that miners adhere to the controls, such as restrictions of time in an area or switching duties. Using administrative controls also requires that there must be a sufficient number of qualified miners available to perform the specific duties. However, mine operators are allowed to use respirators as a supplemental control and, under the final rule, mine operators are required to make NIOSH-approved respiratory equipment available to all miners affected by overexposure as determined by either a MSHA or operator-collected respirable dust sample.

In addition, MSHA's final rule includes new technology to measure dust levels by requiring the use of the continuous personal dust monitor (CPDM), a device developed with mining industry involvement to provide real-time sampling results. The CPDM allows mine operators to become aware of conditions or problems with dust controls that need to be corrected. This enables a mine operator to be more proactive in taking corrective measures to avoid miners being overexposed, and to optimize mining procedures and dust control parameters to continuously maintain dust levels at or below the dust standard. The CPDM can and should be used by operators as an engineering tool. The CPDM measures the concentration of respirable coal mine dust continuously and in real-time and it provides sampling results at specific time intervals, which allows for adjustments during the shift to reduce miners' exposure, as well as at the end of the work shift.

REPORTING ON USE OF LABOR RELATIONS CONSULTANTS

Mr. Kingston: The Committee is concerned that this rule will deprive employers of their right to legal counsel and employees of the right to receive information from their employer while they are deciding whether to be represented by a union. The rule also imposes reporting costs on employers. The Department's estimated the rule would cost businesses \$826,000 in the first year of implementation, however, recent studies—two of which were conducted by former DOL economists—estimate the costs of implementation would be between \$2.4 and \$10.6 billion in the first year of implementation and between \$1 and \$6.5 billion each year thereafter.

Does the Department agree that OSHA should conduct a review of industry cost estimates and incorporate any valid costs that were not included in its original assessment into a revised cost estimate? Will the Department conduct a

Regulatory Flexibility Act analysis to ensure that concerns about the Department's cost estimates are addressed?

Mr. Perez: In a June 21, 2011 proposed rule, titled Labor-Management Reporting and Disclosure Act; Interpretation of the "Advice" Exemption, 76 Fed. Reg. 36178, the Department's Office of Labor-Management Standards estimated that the rule's total annual cost on filers will be approximately \$826,000, and therefore would not be considered economically significant under section 3(f) of E.O. 12866. The Department also determined that, as a result, the proposed rule is not expected to have a significant economic impact on a substantial number of small entities, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* See 76 Fed. Reg. 36205. The Department received comments concerning the regulatory burden analysis in the context of the NPRM. These comments, among other things, offered alternate methodologies and estimates for determining the burden of the proposed rule. The Department is therefore fully aware of analyses estimating that the rule's cost will be larger than the Department's estimate. The Department is considering those comments and will fully address cost estimate concerns upon publication of a final rule.

MINIMUM WAGE

Mr. Kingston: Considering that Secretary Perez is now describing raising the minimum wage in terms of civil and human rights, does that mean that those who do not support this increase are to be considered opposed to civil rights?

Mr. Perez: Since 1938 the national minimum wage has been raised 22 times under both Democratic and Republican administrations with broad bi-partisan support. No one who works full time in the United States should have to raise their family in poverty. But that is exactly the situation for millions of people barely surviving on as little as \$7.25 per hour. Raising the federal minimum wage is the right thing to do for our workers and the smart thing to do for our economy.

Mr. Kingston: If the Administration wants to cast the minimum wage debate in terms of civil rights does that mean that there is no room for an honest debate about the economic impacts of minimum wage proposals?

Mr. Perez: Researchers have found little to no negative impact on employment from modest increases in the minimum wage. Rather, raising the minimum wage to \$10.10 will benefit 28 million workers, lifting 2 million people out of poverty. I have heard from small business owners and CEOs of large businesses who say the same thing – more money in the hands of workers will inevitably be spent in their stores, improving their bottom line. I always welcome the opportunity for an honest debate on the challenges facing American businesses and workers. I look forward to working with members of the Committee to address these challenges.

HEALTH AND WELFARE BENEFIT FOR FAST FOOD WORKERS

Mr. Kingston: The Armed Service contracting office has informed owners of restaurants on military bases that DOL will require them to pay a health and welfare benefit of \$3.81 per hour per employee in addition to the new minimum wage required by the President's Executive Order on minimum wage for federal contracts. What is the Department doing to ensure that effected establishments don't eliminate all their employees and close their doors, both reducing employment options on military bases and reducing affordable food options for service members?

Mr. Perez: The Department's Wage and Hour Division is responsible for determining the applicable prevailing wages and benefits are under the Service Contract Act. In reviewing the fast food wage determinations last summer, in addition to finding that the workers were being paid a substandard wage, the Wage and Hour Division determined that those fast food workers should receive fringe benefits. According to our long-standing regulations, we generally apply a standard fringe benefit amount of \$3.81 to the wages of all workers covered by the Service Contract Act.

Our regulations also provide that government agencies with contracts covered by the Service Contract Act may ask us to reconsider application of that nation-wide fringe benefit rate if they think that because of the special circumstances of a particular industry, a variation in fringe benefits is necessary and proper in the public interest or would avoid the serious impairment of government business. On May 16, 2014, we responded to a request from the Department of Defense that we review the wages, fringe benefits, and vacation/holiday pay for fast food workers on federal contracts. After careful consideration of DOD's request, our regulations, and the relevant data, the Department determined that we will no longer require a fringe benefit rate of \$3.81. Instead, contractors employing fast food workers on federal contracts will be required to pay \$.66 in fringe benefits, \$.17 in vacation pay for workers who have been employed for more than a year, and \$.09 in holiday pay. We believe that these wage and benefit rates more accurately reflect the conditions in the industry and the definitions of prevailing rates embodied in the statute.

UPDATES TO OVERTIME AND WAGE REGULATIONS

Mr. Kingston: On March 13, 2014 the President directed the Department of Labor to propose revisions to current overtime regulations. What is the Department's expected timeline for proposing new rules including adequate time to allow for impact assessments and addressing concerns and comments from Congress and the public?

Mr. Perez: We have started our work on updating the overtime regulations for executive, administrative and professional employees in response to the President's direction to the Department.

The Department is considering how the regulations could be revised to update existing protections in keeping with the intention of the Fair Labor Standards Act, address the changing nature of the American workplace, and simplify the overtime rules to make them easier for both workers and businesses to understand and apply.

The Department is committed to providing meaningful opportunities for the public to participate in this initiative. To date, we have already communicated directly with representatives of major human resources organizations such as the Society for Human Resource Management, the HR Policy Association, corporate CEOs (including the Business Roundtable) and representatives of local chambers of commerce. We have several opportunities for additional engagement tentatively scheduled and are working with the Small Business Administration's Office of Advocacy to identify key opportunities for broad stakeholder engagement. A list of such opportunities for public engagement will be made available in the near future and we will keep you informed of these activities. Should you have constituents you wish to have included in such engagements, we would welcome your suggestions. The Department's Spring 2014 Plan and Regulatory Agenda will include a timeline for the issuance of a proposed rule. I look forward to working with members of the Committee as we move forward.

Mr. Kingston: On February 12, 2014 the President issued the Executive Order on "Establishing a Minimum Wage for Contractors" and required the Department to issue regulations by October 1, 2014. When will the Department issue proposed regulations and what is the expected timeline for public comments?

Mr. Perez: The Department is in the process of developing proposed regulations and intends to fully comply with the Administrative Procedure Act in development of regulations to implement Executive Order 13658.

Mr. Kingston: Does the Wage and Hour Division have sufficient capacity to undertake all Departmental rulemaking policies and procedures for this and new overtime regulations simultaneously? If not, how will the Department deviate from standard operating procedure in order to meet the deadline?

Mr. Perez: WHD and the Department are confident that we have sufficient capacity to accomplish all the regulatory initiatives we will undertake. We intend to adhere to all required policies and procedures applicable to proposing and implementing regulatory changes.

Mr. Kingston: The term "contract-like instrument" is used several times in the February 12 Executive Order. How will the Department define this term for purposes of the proposed rule?

Mr. Perez: The Department is in the process of developing proposed regulations to implement Executive Order 13658. The proposed regulations, which will address the term “contract-like instrument,” will be subject to the notice and comment provision of the Administrative Procedure Act.

Mr. Kingston: Both the Service Contract Act and the Davis-Bacon Act refer to “locally prevailing wages” as the rates to be paid workers covered by those laws. Will \$10.10 plus any future indexing now be considered “locally prevailing wages” nationwide for purposes of contractors subject to the Service Contract and Davis-Bacon Acts?

Mr. Perez: Executive Order 13658 establishes a minimum wage for contractors and subcontractors on contracts covered by the Executive Order. This minimum wage is separate from prevailing wage rates determined under the Service Contract and Davis-Bacon Acts. Section 2(c) of the Executive Order makes clear that compliance with the Executive Order does not excuse noncompliance with any applicable Federal or State prevailing wage law.

This new wage level is also supposed to be incorporated into any subcontracts.

Mr. Kingston: This new wage level is also supposed to be incorporated into any subcontracts. Does that mean subcontractors that have an agreement with a primary contractor or any level of subcontract regardless whether the contractor has a direct agreement with the primary contractor?

Mr. Perez: This issue will be addressed in the Department’s Notice of Proposed Rulemaking and will be subject to the notice and comment provision of the Administrative Procedure Act.

Mr. Kingston: What is the Department’s determination for how many employees will be covered by the new minimum wage for contractors?

Mr. Perez: Executive Order 13658 is expected to benefit the hundreds of thousands of people working under contracts with the federal government who are making less than \$10.10 an hour.

DUPLICATIVE JOB TRAINING PROGRAMS

Mr. Kingston: The 2011 GAO study found that taxpayers spent \$18 billion on 47 duplicative job training programs across 9 federal agencies. The FY 2015 President’s budget proposes to create several new job training programs but provides no meaningful detail on plans to address duplication across job training programs, including specific proposals to streamline or eliminate programs identified in the study.

What is the Department's plan for FY 2015 and overall vision going forward to address this critical issue? Of the 47 programs identified by GAO, please identify which the Department believes are the most effective and which can be considered for consolidation or elimination.

Mr. Perez: In his State of the Union address, President Obama laid out a vision based upon the principle of opportunity for all. Key parts of that vision are helping people get the skills they need to succeed in good-paying jobs and ensuring that America's employers have the skilled workers they need to successfully compete in the global economy. On January 31, 2014, the President issued a memorandum tasking Vice President Biden to conduct a review of our nation's employment and training programs to make this vision a reality, building on what we do right, fixing what we need to do better, and taking best practices to scale.

This review will be guided by the principle of job-driven training for workers. The review will result in an action plan that identifies steps to make sure that Federal programs deliver on the promise of job-driven training for workers and for employers.

The Department of Labor is working with the Vice President and our colleagues at the Departments of Commerce, Education, Health and Human Services and other agencies to implement this review and identify new, more cost-effective ways to help more Americans on a faster path to valuable skills and credentials, good jobs, and meaningful careers. While the Fiscal Year 2015 Budget request includes several plans to streamline or align workforce and training services, it also emphasizes building on what is working and encouraging innovation to improve service delivery and performance.

We need to be cautious in drawing conclusions about duplication from the GAO report on multiple Federal employment and training programs. Some Federal employment and training programs have some overlapping eligibility and many have shared goals; however, many have other unique goals and outcomes. The Department of Labor-administered job training programs serve diverse individuals with specific needs, including veterans, individuals with disabilities, low income youth, Indians and Native Americans, and migrants and seasonal farmworkers. Through the public workforce system, States and local workforce areas have the flexibility to design employment and training services to build strong regional economies. I look forward to discussing with the Committee the results of the Vice President's review.

Mr. Kingston: How are the proposed mandatory New Career Pathways and Job-Driven Training Fund programs not at least partly, or fully duplicative of existing discretionary job training and dislocated workers programs?

Mr. Perez: Both the New Career Pathways and Job-Driven Training Fund proposals replace, not duplicate, some existing discretionary job training programs.

The New Career Pathways program will streamline the delivery of training by combining the best elements of two existing programs – Trade Adjustment Assistance for Workers and WIA Dislocated Workers – into a single replacement program to provide a set of core services to as many as one million displaced workers.

The Job-Driven Training Fund would continue successful elements of the Trade Adjustment Assistance Community College and Career Training (TAACCCT) program, whose mandatory appropriations end in Fiscal Year 2014, and would encourage increasing use of additional strategies across the country that have proven to be effective, such registered apprenticeships.

MSHA

Mr. Kingston: Are there ways that MSHA can better coordinate activities with state mine inspection agencies to improve mine safety and reduce the costs operators incur for inspections?

Mr. Perez: Under the Mine Act, MSHA is required to conduct inspections at least four times a year at underground mines and twice a year at surface mines for compliance with MSHA's mandatory health and safety standards. It is important to note that some states provide only training services and do not conduct any enforcement activity at all. In those states, MSHA is the sole enforcement authority.

For those states that do have enforcement authority, MSHA engages in a range of coordinated activities with them (depending on the state). These include joint rescue and recovery operations, joint fatality investigations, joint approval of roof control and ventilation plans and joint impoundment inspections.

MSHA and the states with enforcement authority each have their own standards and enforcement structures. The inspection requirements of the Mine Act are an inherently governmental activity and do not permit the delegation of MSHA's inspection authority to the states or third parties.

MSHA has entered into a Memorandum of Agreement with the Interstate Mining Compact Commission, a multi-state governmental organization that represents the natural resource and related environmental protection interests of its member states, to facilitate coordinated and timely communications that promote and protect miners.

Mr. Kingston: MSHA's incident report following the explosion at the Upper Big Branch mine in 2010 revealed that district 4 inspectors visited the mine six times in the time leading up to that disaster. The Department's FY 2015 budget requests an increase in funding for enforcement to hire more inspectors. With the industry in decline in many areas, what is the Department's rationale for increasing inspection activities?

Mr. Perez: The overall increases in the enforcement funding are not a request to increase enforcement activities or to hire more inspectors, but instead are adjustments to account for inflationary increases such as pay raises and shared Departmental costs. These resources will allow MSHA to maintain its inspectorate levels and continue its enforcement efforts at the same levels as in FY14.

MSHA is continuing to reallocate resources from areas in which mining is decreasing to areas that have increased production. In areas where coal mining is on the decline, MSHA is adjusting its enforcement activities accordingly, including deploying more enforcement personnel to other MSHA districts where inspection assistance is needed.

Mr. Kingston: Small mine operators rely on MSHA compliance assistance programs more than large operators that have their own safety training regimes. The Department's FY 2015 budget request again proposes to cut the State Training Grants program "to meet the demand of the agency's higher priority enforcement activities...and shift the responsibility for training back to mine operators." How will the Department ensure that its proposal to cut State Training Grants will not disproportionately affect small businesses?

Mr. Perez: The FY15 Budget proposes to eliminate funding for the State Grants program and shift the responsibility of training to mine operators. As part of this transition away from State Grants, the FY15 request proves \$2.8 million and 18 FTE to enhance the way MSHA is delivering training resources to mine operators. These new resources will help MSHA to develop more of its own training curricula, exercises, and materials to assist mine operators with providing a complete training program to their employees. The increased FTE will review and evaluate mine training plans, conduct online courses and provide professional development for inspectors. In addition, MSHA's Office of Educational Policy and Development will continue to help small mines develop and implement their safety and health programs and provide other assistance through its field services.

Mr. Kingston: The Committee often hears complaints from mine operators and miners alike that MSHA enforcement fosters an adversarial if not confrontational relationship between the federal government and the citizens these programs are designed to protect. What ways can the Department work together with miners and operators to improve safety? How will the Department promote

those efforts while cutting funding for compliance assistance and increasing funding for enforcement as proposed in the budget?

Mr. Perez: The overall increases in the enforcement funding are not a request to increase enforcement activities or to hire more inspectors, but instead are adjustments to account for inflationary increases such as pay raises and shared Departmental costs. MSHA must maintain a sufficient workforce to conduct mandatory inspections and other activities at the nation's coal and other mines.

The proposed FY15 budget, while making changes to the funding for State Training Grants, does not affect the variety of compliance assistance activities that MSHA is continuing. MSHA frequently meets with its stakeholders, including operators, miners and contractors, to identify areas where we can work cooperatively to improve mine safety and health. These collaborations have been very successful, resulting in better guidance and compliance assistance tools so that operators can comply with MSHA's health and safety standards.

Working with the industry, for example, MSHA has implemented a policy recognizing the Globally Harmonized System of Classification and Labelling of Chemicals for coal and metal and nonmetal mines; a policy on the guarding of mobile equipment (Guarding I initiative that focuses on conveyor guarding and Guarding II that focuses on other guarding); and a Fall Protection policy for metal and nonmetal mines that uses OSHA's 6-foot rule as guidance.

In addition, MSHA is encouraging mine operators to include miners in developing their safety and health programs, and MSHA, with the input of the industry, has also started health initiatives, such as the initiative under 30 CFR 56/57.5002 to protect miners at metal and nonmetal mines from airborne contaminants

As a result of these and other collaborations, compliance has improved and MSHA is issuing fewer citations and orders for violations of these standards.

WAGE AND HOUR

Mr. Kingston: The Committee is concerned by the Department's increased use of hot goods orders against farmers and their perishable commodities—a penalty that was originally intended for alleged wage and hour violations on manufactured goods. A federal judge ruled that DOL staff in Oregon used duress to obtain signatures on consent agreements at three blueberry farms in the summer of 2012. Given the controversy surrounding the Department's use of its hot goods power involving perishable agricultural crops and this recent court decision, what policy changes are you implementing to insure farmers' due process rights are protected during future agency investigations?

Mr. Perez: The phrase "hot goods" refers to the prohibition in the Fair Labor Standards Act (FLSA) against an employer moving goods in commerce that have

been produced in violation of the minimum wage, overtime, or child labor provisions of the Act. The Department has a responsibility to enforce the worker protection laws passed by Congress without regard for the industry or goods produced. The Department does recognize, however, the unique conditions faced by employers across the country and makes every effort to resolve matters expeditiously. The Department can request that an employer voluntarily agree not to ship goods that the Department believes were produced in violation of the FLSA, but it does not have the authority to issue hot goods orders, as only a federal court can do so. The Department does not seize goods or restrain their shipment. Any employer, including a farmer, who is in violation of the FLSA and the subject of a Department request to a federal court for a hot good order can avail themselves of the due process provided to them under the federal court system.

Mr. Kingston: In response to the Oregon case, what kind of internal review has been carried out, what was discovered, and what has been done to ensure such tactics aren't repeated?

Mr. Perez: We are reviewing the court's decision in this case and considering next steps.

WAGE AND HOUR – ENFORCEMENT

Mr. Kingston: The FY15 budget requests \$265.7 million for the Wage and Hour Division (WHD), an increase of \$41.4 million over the FY14 enacted level. This is a substantial increase given that the budget agreement for FY15 does not include a significant increase in discretionary allocations.

Why does the budget seek this increase in the WHD over other priorities in the Department?

Mr. Perez: The Department's Wage and Hour Division puts earned money back in workers' pockets. In addition to protecting the earned income of workers, WHD's enforcement helps to level the playing field for businesses that play by the rules. Laws enforced by WHD cover over 135 million workers in more than 7.3 million establishments nationwide. Additionally, these resources will allow WHD to develop a new integrated enforcement and case management system to allow investigators to capture higher quality and more timely data to analyze trends in labor law violations, target investigations and compliance assistance efforts, and evaluate the impact and quality of enforcement.

Mr. Kingston: The Department's budget justifications state that the proposed increase in funding for the division would be to "significantly expand the WHD investigator corps" in order to continue transformation into an organization that is effective in "achieving compliance." The justifications go on to state that WHD's

ability to achieve compliance depends on a balance of enforcement, outreach, compliance assistance, and policy making.

How does an 18 percent increase in the agency's budget devoted entirely to enforcement help to achieve that balance?

Mr. Perez: An increase in FTE also supports increased outreach and compliance assistance. Wage and Hour investigators are not exclusively focused on enforcement. Consistent with the goals of taking a more strategic approach to enforcement, the additional investigators will also conduct outreach and provide compliance assistance that complements and strengthens their enforcement activities.

Mr. Kingston: The Committee understands that the agency investigates complaints, but how does it ensure that the "directed investigation program" does not unfairly target or burden employers in some industries and not in others, especially the small business that face real out-of-pocket costs from these investigations which may otherwise be used to create jobs?

Mr. Perez: Prioritizing limited investigation resources is a major component of WHD's enforcement planning, and therefore, WHD is equally interested in conducting investigations where we can have the greatest impact on compliance for the largest number of vulnerable workers. A strategic directed enforcement program provides WHD with the ability to prioritize enforcement resources, plan for sustained compliance, evaluate how strategies can deter violations beyond the investigated employers, and measure the extent to which individual investigations can address system-wide compliance problems. To that end, WHD relies on a data-driven, evidence-based approach to determine where to conduct directed enforcement. This approach focuses resources on those priority industries with a history of paying vulnerable workers in violation of wage and hour laws.

WEBINARS

Mr. Kingston: The Department has conducted webinars to help unions better understand better how to complete their reporting requirements under the Labor-Management Reporting and Disclosure Act (LMRDA). The Committee believes this is a valuable compliance assistance tool which will help unions avoid enforcement penalties. Why hasn't the Department offered webinars to help employers and small businesses better understand their obligations under the various laws with which they have to comply such as the Fair Labor Standards Act, Occupational Safety and Health Act, and the Federal Mine Safety and Health Act? Will the Department develop training webinars to help business better understand their legal and regulatory responsibilities so they can also avoid enforcement penalties? What is the timeline for making any such tools available?

Mr. Perez: The Department recognizes that enforcement alone is not sufficient to achieving our mission of protecting the nation's workers. Education and outreach to promote voluntary compliance have always been key to this mission, and our enforcement agencies are serious about providing compliance assistance to employers and especially small businesses. For example, the Occupational Safety and Health Administration's (OSHA) On-site Consultation Program offers free and confidential occupational safety and health consultation service for small and medium-sized businesses in all 50 states and most U.S. territories to help them evaluate their worksites to better understand and address their legal and regulatory responsibilities. On-site Consultation services are separate from enforcement and do not result in penalties or citations.

OSHA also has Compliance Assistance Specialists (CASs) in most of its area offices who reach out directly to employers, and employer and workers' groups; small businesses are among their most important target audiences. In the first quarter of FY 2014, for example, CASs conducted approximately 1,000 outreach visits, of which approximately a quarter were to small businesses. During these visits, CASs discuss agency initiatives, such as the Heat and Fall Prevention campaigns, provide training, and distribute compliance assistance publications and other materials.

OSHA continually posts guidance materials on its website, and makes available Fact/Info Sheets, Cards, longer publications, videos and similar sources of guidance for employers. In the first half of FY 2014, more than 50 of these new compliance assistance products became available, focusing on topics as diverse as the hazards of concern in the temporary, nursing home, hospital and poultry industries, to mention only a few. While most of these materials are useful to employers of any size, some are designed specifically for small employers. For example, in March of 2014, the Agency issued a publication entitled "Hazard Communication: Small Entity Compliance Guide for Employers That Use Hazardous Chemicals" (OSHA Publication 3695); in the same period it also made available numerous other resources to help employers safely handle toxic substances.

The Mine Safety and Health Administration (MSHA) provides various methods of compliance assistance to help employers and small businesses better understand their obligations under the Federal Mine Safety and Health Act. These include training programs delivered by professional trainers from the National Mine Health and Safety Academy, distance learning programs, online and printed compliance guides, and mine-site compliance assistance where training specialists meet with employers and small businesses to assist them one-on-one with regulatory compliance and to help with safety and health concerns. MSHA expects to provide approximately 17,000 hours of compliance assistance and 47,000 injury and illness prevention training hours to the mining industry in FY 2014.

In the past year, the Wage and Hour Division (WHD) has conducted more than 900 outreach seminars, conferences, speeches, symposiums, panel discussions, and presentations where the target audience is geared to employers, employer representatives, human resource professionals, and/or employer associations. Since FY 2009, WHD has conducted more than 4,400 events to these audiences.

For example, the WHD has done extensive outreach and education around H-2A and H-2B immigration requirements; conducted numerous outreach events for a variety of stakeholders, including employers, on the changes to the companionship exemption under the Fair Labor Standards Act (FLSA); and conducted prevailing wage seminars for agencies, unions, and employers discussing compliance with the Davis Bacon Act, the Service Contract Act, and a number of other government contract requirements. In fact, the WHD just concluded such a seminar in San Diego attended by more than 400 participants, one of six to be conducted this year. The WHD has also conducted outreach events for 14(c) certificate holders to help them understand how to achieve compliance under that FLSA program. In addition, the agency provides a wide variety of educational materials, such as formal interpretive bulletins, compliance guides, fact sheets, checklists, pamphlets, new and small business guides, self-audit packages, posters, bookmarks, videos, and an electronic interactive program through the Department's website.

The Department is always looking at more effective methods of providing compliance assistance information to its stakeholders, including the use of Webinars. The combination of enforcement along with compliance assistance is the most effective manner for achieving compliance with the laws our worker protection agencies administer.

WORKFORCE TRAINING INITIATIVE

Mr. Kingston: In the State of the Union, the President said that reforming the federal training programs was a priority and then he asked Vice President Biden to lead the initiative. Wage Record Interchange System 2 (WRIS2) was established to facilitate the aggregation, analysis, and availability of reporting and performance requirements for Federal or state training and education programs, while maintaining the confidentiality of personal identifiable information.

As part of the President's initiative, does the Department plan on investigating how WRIS2 is currently being used by states? Will this information be used to help guide the Vice President's reform efforts?

Mr. Perez: Understanding the benefits to states that the Wage Record Interchange System 2 (WRIS2) provides, both to Department of Labor funded and partner programs, is a priority for the Department. Currently the Employment and

Training Administration (ETA) pursues regular opportunities to hear from states about their uses of the initiative.

Many states have signed the voluntary Data Sharing Agreement with an eye towards future participation and are currently establishing their infrastructure to support their active participation. The Data Sharing Agreement between the states, to which ETA is also a party, establishes the parameters to which the states agree to exchange their state wage records. Others have established processes that regularly provide outcomes for those agencies with which they have agreed to work. The WRIS2 implementation varies, since each state operates according to its state structure and regulations.

The WRIS2 Operator submits monthly reports on WRIS2 activity to participating state representatives and ETA. On the ETA Web site (http://www.doleta.gov/performance/wris_2.cfm) contact information for WRIS2 state representatives and the WRIS2 Operator and ETA staff responsible for WRIS and WRIS2 are available. ETA has a dedicated email address for inquiries on WRIS2, which is published on the ETA Website. The WRIS2 Operator and ETA staff provides technical assistance to states through regularly scheduled town halls, and one-on-one sessions with states at their request. ETA is always available to discuss how states are leveraging the WRIS2 interface, as part of the President's initiative to reform federal job training programs.

Mr. Kingston: Currently, a number of states are reporting poor match rates when submitting queries through WRIS2. There have also been reports that the Administration has been less than helpful when asked for technical assistance when it comes to implementing WRIS2, which has left a number of states reluctant to participate in WRIS2, as well as caused a number of states to agree to participate, but then not actually use the system.

What is the Administration doing to ensure that the exchange system is working properly?

Mr. Perez: Department of Labor oversight of the Wage Record Interchange System (WRIS) and WRIS2 system includes conducting regular confidentiality and compliance reviews of participating states. These reviews assess entities that use or have access to wage data obtained through WRIS or WRIS2 and verify that these entities are adhering to the requirements of the WRIS/ WRIS2 Data Sharing Agreements.

WRIS and WRIS2 are governed by the collective membership of the signatory states and the Department's Employment and Training Administration (ETA). States' WRIS or WRIS2 participation and implementation are voluntary and governed by state law. Signatory states and ETA comprise the WRIS and WRIS2 Advisory Groups, which meet once per quarter for WRIS and once every two quarters for WRIS2. The Advisory Group meetings serve as a venue for

communication and discussion of operations, recommendations for improvement, and other WRIS or WRIS2 policy and operational issues.

The operations contractor who handles the technical operations of the Interstate Connection Network (ICON) within which WRIS and WRIS2 operate, monitors the exchange of UI wage data requests and responses from participating states' agencies. ETA works closely with the operations contractor to address any issues that arise with regard to the continued facilitation of interstate wage data exchanges.

Mr. Kingston: What actions do you intend to take to ensure that states are getting the TA they need to adequately use participate in the system?

Mr. Perez: The Employment and Training Administration (ETA) actively provides technical assistance regarding the WRIS and WRIS2 initiatives to participating states. For example, ETA participates in all WRIS and WRIS2 Advisory Group meetings with participating states, during which technical assistance needs are discussed. Through quarterly "Town Hall" web trainings, ETA provides general and targeted technical assistance to states. In addition, ETA provides technical assistance by request to states and the interested entities, and will continue offering an existing suite of technical assistance services.

The introduction of WRIS2 provided an avenue through which states can leverage the use of the Interstate Connection Network (ICON) as a means for the interstate exchange of state wage data. With implementation, there is a growing need for technical assistance to partner programs in the workforce system and not only the state agency parties to the WRIS2 data sharing agreements. ETA plans to reach out to those partner programs authorized to enter into agreements with participating state agencies to obtain aggregate data through WRIS2, to increase their engagement in the existing technical assistance activities and develop targeted technical assistance. ETA also plans to continue and expand its work with other Federal agencies to reach out to these partner programs in order to inform them of the operation of WRIS2 and make them aware of the related technical assistance resources that are available.

GOLD STANDARD EVALUATION

Mr. Kingston: The Committee remains concerned about the effectiveness of Workforce Investment Act programs and the lack of empirical evidence that these programs achieve their intended results.

In 2008, the Department awarded a \$23 million contract to conduct a "rigorous, random assignment evaluation of the Adult, Dislocated Worker, and Youth formula programs established under Title I of the Workforce Investment Act of 1998 (WIA)."

Is this evaluation on track to provide results in fiscal year 2015?

Mr. Perez: Yes. The Workforce Investment Act (WIA) Adult and Dislocated Worker Programs Gold Standard Evaluation will produce the first impact estimates in December 2015, as scheduled, and the final impact results will be available in the summer of 2017. This rigorous, random assignment evaluation of the WIA Adult and Dislocated Worker programs demonstrates the Department's commitment to rigorous program evaluation to determine the impact of its employment programs.

Mr. Kingston: Are there any preliminary results from this study that would help the Department determine which WIA programs and approaches are most effective, and, if so, how is that reflected in the Department's fiscal year 2015 budget?

Mr. Perez: The evaluation will produce the first impact estimates in December 2015, after the end of Fiscal Year (FY) 2015. The FY 2015 President's Budget request does not reflect findings from the WIA Gold Standard Evaluation, since they are not available at this time. The Budget request does reflect the Department's commitment to conducting rigorous, relevant evaluations and to using evidence from evaluations to inform policy and practice. For example, the REA/RES proposal is evidence-based. Research has shown that an integrated approach combining UI eligibility assessments with reemployment services effectively helps claimants find jobs faster, eliminates payments to ineligible individuals, reduces UI duration, and saves resources by reducing overall benefit payments.

Mr. Kingston: Will the Department use the findings from the Gold Standard Evaluation to improve the performance measures it uses to assess WIA programs?

Mr. Perez: The Department is committed to using findings and recommendations from all of its evaluations to inform program and policy development.

Mr. Kingston: Will the Department use the findings from the Gold Standard Evaluation to better align WIA funding streams and achieve better outcomes?

Mr. Perez: One of the goals of the Department's research and evaluation activities is to improve the management and effectiveness of its programs and activities. Recommendations and findings from the WIA Gold Standard Evaluation will be used to inform the continuous improvement of the WIA Adult and Dislocated Worker programs.

GOVERNOR'S RESERVE

Mr. Kingston: With respect to the 15 percent set-aside, Secretary Perez stated at the April 2 hearing that "in the ideal world, we would love to be at a 15 percent level But the only way to get there would be to take money from the formula that goes to local governance."

The Workforce Investment Act requires state workforce agencies to perform nine required activities as part of the governance of WIA.

The governors reserve is the primary funding states use to conduct these mandatory requirements of WIA, however with the reduction of the governors reserve from 15 to five percent starting in 2011, many states have requested waivers from some of these mandated activities due to insufficient funding to perform these activities.

Between Program Years (PY) 2010 and 2014, 37 states (*AL, AR, CA, CO, CT, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MT, NC, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, PR, RI, SC, TN, TX, VI, WV*) submitted waivers across the nine required WIA state activities.

The chart below provides a summary of the number of states who submitted waivers for each required state activity. The two required activities that received the most number of states requesting waivers were providing incentive grants to local areas and conducting evaluations of WIA Adult, Dislocated Worker and Youth Programs. A smaller, yet significant number of states also requested waivers on disseminating cost and performance information on training providers and providing assistance to local areas with high concentrations of eligible youth.

WIA Waivers for Required State Activities between PY 2010-2014		
Waiver Type	# of States	States
Rapid response for statewide activities	1	NY
Disseminating the list of eligible training providers	0	N/A
Disseminating Training Provider Performance and Cost Information	13	AL, CO, IL, IN, KS, LA, MN, NE, NH, NY, OH, PR, SC
Incentive Grants to Local Areas	35	AL, AR, CA, CO, CT, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, MI, MN, MT, NC, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, PR, RI, SC, TN, TX, WV

Conducting Evaluations	23	AL, AR, CA, CO, ID, IL, IN, KS, ME, MI, MN, NE, NH, NY, OH, OR, PA, PR, RI, SC, TN, VI, WV
Technical Assistance to Local Areas who fail to meet local performance measures	0	N/A
Assist in establishment of one-stop delivery systems	2	AR, NE
Assistance to local areas with high concentration of eligible youth	10	AR, CA, HI, ID, MI, NE, NM, OR, PR, TX
Fiscal Management and Accountability	0	N/A

The Committee believes when states have to opt out of mandated activities that assist local areas, such as providing incentive grants to local areas and assessing the integrity of the workforce system, we are already at the point where local areas are being hurt due to a lack of service.

At the April 2 hearing the Secretary said that none of us want to “end up in a situation where you're pitting the state against the local authorities. And that's the challenge that we confront.”

Given the impact to the local areas that has already occurred due to the waivers and other issues, what other options are available to restore these services if the governor’s reserve remains below 15 percent in FY15? Both the local areas and states have already been impacted by this reduction and the Committee believes the situation needs to be corrected.

Mr. Perez: The FY 2015 budget adheres to the spending levels agreed to in the Bipartisan Budget Act of 2013, which was an important first step toward replacing the damaging cuts caused by sequestration with sensible long-term reforms. However, remaining at these levels necessitates difficult decisions and means that we cannot accommodate additional investments in key areas like the job training formula grants. The Opportunity, Growth, and Security Initiative proposed in the 2015 Budget acknowledges this, and included funds to restore prior cuts in the formula grants.

The FY 2015 Budget does, however, request the continuation of the reserve at the 2014 level, which will allow for states to fulfill their fundamental state oversight and accountability activities. Increasing the State reserve without increasing formula funding would cut into local funding. At the state level, reduced funding

results in administrative challenges but states can exercise significant discretion and have been given flexibility in absorbing these reductions. The Department will continue to work with States to identify ways to operate within these funding levels while continuing essential activities.

Mr. Kingston: Does the Department believe the governor's reserve should be restored to the authorized 15 percent level?

The Secretary stated at the April 2 hearing that the approximately \$50 million in WIF appropriations would only restore the governors reserve to 9 percent. How high could the governors reserve be in the Committee used the \$60 million requested for the WIF in the FY15 President's budget plus the \$80 million requested in the Department's budget for WIA Incentive Grants and the \$15 million requested for Sector Strategies for a total of \$155 million?

Mr. Perez: The Fiscal Year (FY) 2015 Budget request attempts to carefully balance current fiscal realities; the immediate needs of our customers, including the long-term unemployed, businesses, and veterans; and the long-term integrity, efficiency, and effectiveness of the public workforce system. The Workforce Innovation Fund, WIA Incentive Grants, and Sector Strategies, are vital to driving continuous improvement in the workforce system and developing more efficient and effective ways of equipping workers with the skills employers need to grow their businesses. While we agree with the need to sustain the formula grants, and have maintained them at the 2014 enacted level, we think investment in innovation and better performance is critical to the continued improvement of these programs. Additionally, the Department has designed these initiatives in a way that ensures States are positioned to compete for and leverage these resources.

SKILLS GAP

Mr. Kingston: According to preliminary data from the Bureau of Labor Statistics, there were 4.1 million job openings in January up from 3.8 million a year ago. This is despite a labor-participation rate at the lowest level since 1978. Millions of workers have simply given up looking for work and dropped out of the workforce. Employers tell us they cannot find workers that have the skills they need. This skills gap has been a persistent problem despite billions of dollars the Department spends each year on employment and training programs.

What is the Department doing to better understand what skills are in demand and adapt training programs to meet those needs?

Mr. Perez: The number of job openings is not reflective of a skills gap. There are always millions of jobs open because it takes time to post a job opening and find someone to fill it. The number of job openings today is still lower than we would like, reflecting both not enough jobs for unemployed workers and a lower

level of overall churn in the labor market. There is little evidence that skills mismatch is a major factor in the current above-average unemployment rate or for long-term unemployment or that it is worse today than in the past. But better matching to jobs and better skills can improve the labor market and the economy by raising worker productivity and wages and making it easier for people, particularly harder-to-employ populations to transition into new jobs. This can prevent a skills gap from emerging in the future and promote economic opportunity.

The Department and the Administration are engaged in a multitude of efforts to understand the skills in demand and to align training programs to meet those needs. The Department invests in workforce information and electronic tools to assist workforce leaders at the state, local, and regional levels to make full use of labor market and other workforce information available from the Department and other sources. These tools assist workforce leaders with adapting their strategies to meet the occupations and skills that are in demand by employers in their local and regional economies. Federal, state, local, and regional workforce program administrators rely on this information for strategic planning, targeting participants, and selecting training courses and providers. Also, the Department requires applicants for its discretionary grants to demonstrate the use of accurate and timely labor-market, demographic, and economic information about current and projected employment opportunities and the related knowledge, skills, abilities, and credentials required to work in targeted industries and occupations.

In addition, the Department has been advancing industry-driven workforce partnerships through both discretionary and WIA formula grants. This approach encourages state and local areas to not only assess labor market data but to validate regional skill needs with local employers in order to develop education and training programs to meet industry needs. These regional workforce partnerships often include employers, workforce investment boards, community colleges, labor and other stakeholders.

Finally, the Vice President is currently leading an across-the-board review of employment and training programs to ensure that every program is focused on providing individuals with skills that prepare them for good jobs and careers and on helping employers find individuals with the skills that fit the job they're hiring for. The goals of this review are to: Expand employer and industry engagement with the workforce system, help educational institutions and training providers equip individuals with in-demand skills, improve information for individuals, increase accountability for training program outcomes, increase alignment across programs, and encourage partnerships between employers, educators, worker representatives, and others.

Mr. Kingston: If Community Colleges are the "secret sauce" to better matching workforce training to in-demand skills why doesn't the FY15 budget request discretionary funding for the TAACCCT program and why isn't the

proposed successor program, the Community College Job-Driven Training Fund, proposed as part of the regular budget instead of in the Opportunity, Growth and Security Initiative?

Mr. Perez: Community colleges are a critical stakeholder in ensuring that job seekers have the credentials that employers demand for their jobs, and in helping businesses hire workers that have the right skills. The 2015 Budget adheres to discretionary spending levels agreed to in the Bipartisan Budget Act of 2013, which was an important first step toward replacing the damaging cuts caused by sequestration with sensible long-term reforms. However, remaining at these levels necessitates difficult decisions and means that we cannot accommodate additional investments in key areas like community colleges. The Opportunity, Growth, and Security Initiative proposed in the 2015 Budget acknowledges this and included funds to provide additional resources to grow the economy and create jobs. The OGSF proposes to build on the success of TAACCCT through the Community College Job-Driven Training Fund, a successor program that will enable community colleges to launch new training programs and proven models such as registered apprenticeships. The Community College Job-Driven Training Fund will be a cornerstone of the Department's efforts to enhance the skills of workers nationwide. In addition, the Department is ensuring that Community Colleges are eligible to compete in a broad variety of competitive grant programs.

Mr. Kingston: What outcome metrics does the Department rely on to determine which WIA training programs are most effective? What data will the Department look at to help inform its effort to "align funding streams" from existing workforce training programs?

Mr. Perez: The workforce programs administered by the Employment and Training Administration (ETA) have had an accountability system in place for many years.

Outcome metrics that the Department relies on to ensure effectiveness of programs for adults are: entered employment, employment retention, and average earnings. The outcome metrics the Department relies on for youth programs are: placement in education or employment, attainment of a degree or certificate, and literacy and numeracy gains.

One way of evaluating and improving performance is to have common performance measures for programs with similar goals. ETA and the Veterans' Employment and Training Service (VETS) have worked to define common performance measures, and as of July 1, 2005, these measures were implemented for the WIA Title I-B and Wagner-Peyser employment services and VETS programs. The Trade Adjustment Assistance (TAA) programs implemented the common measures on October 1, 2005.

In addition, the Department is awaiting the results of the WIA Adult and Dislocated Worker Programs Gold Standard Evaluation, which will produce the first impact estimates in December 2015, with a final report expected in the summer of 2017. The results of this evaluation will help drive improvement in these programs.

Mr. Kingston: There will undoubtedly always be anecdotal stories of individuals who received training and went on to find good jobs. Considering the facts and figures cited above, why hasn't the Department's job training efforts reduced the skills gap on an aggregate level?

Mr. Perez: Since the start of the Great Recession, an average of more than 14 million people each year have turned to the Department's job training and employment services for assistance, including nearly 12 million unemployed workers, more than 1 million veterans, and 1.6 million young people. When it comes to preparing and connecting ready to work Americans with ready to be filled jobs, we know that training helps. For example, 81 percent of unemployed training graduates found a new job within three months, and on average, training graduates went on to earn 18.6 percent more than those who did not complete training. In the last year alone, the Department's Wagner-Peysner (Employment Service) programs provided services to 18.3 million people, and 7.38 million (53 percent) of participants went on to find a job within three months after completing their program. Also, in the last year alone, Workforce Investment Act (WIA) programs helped 2.2 million people receive services, including 1.4 million unemployed individuals, and 825,000 WIA program completers found a job within three months. Four out of every five WIA program completers who received training found a job, and, nine out of ten of these newly hired WIA training completers were still employed six months later. There continues to be great need and we continue to be focused on lifting up what works and bringing good programs to scale across the country.

Mr. Kingston: What policies are being developed to promote more effective partnerships between employers, community colleges, foundations, unions and training organizations?

Mr. Perez: The Department has been advancing regional workforce partnerships in both its formula and discretionary programs. This is accomplished through sectoral workforce strategies, career pathways programs and a variety of other strategies outlined and encouraged in formula and discretionary grants. The partnerships we encourage include employers, workforce boards, community colleges, foundations, unions and training organizations.

In addition, the Workforce Investment Act requires deep engagement of Workforce Investment Boards (WIBs) with the employers in the communities and regions they serve. The law requires that employers make up the majority of state and local WIB membership, and provides states and local WIBs with a variety of

flexible resources that can be used to address the needs of their dual customer base – businesses and jobseekers. Recognizing the significant role that state and local workforce investment boards play in transforming the system, DOL issued policy guidance (TEGL 33-11) to the workforce system in Program Year 2012 that encouraged a focus on meeting urgent employer needs, provide leadership, leverage resources, and demonstrate results. Additionally, the policy guidance encouraged state and local workforce agencies to provide regular training and support to state and local workforce board members to increase their collaboration-building capacity.

The Department provides a range of technical assistance to help states and local WIBs engage strategically with employers. Examples of recent technical assistance include the development and roll-out of comprehensive online training for state and local business services representatives and grants to 13 states to expand their business engagement efforts. The Department intends to deliver significant technical assistance on sector strategies in Fiscal Year 2014, and is planning to issue updated policy guidance to further support strategic business engagement in the system.

Further, the Department's discretionary grants have strongly emphasized partnerships between employers, community colleges, and the public workforce system. For instance, the Trade Adjustment Assistance Community College and Career Training (TAACCCT) grants, first awarded in Fiscal Year 2011, have always required employer engagement. The final (FY 2014) TAACCCT competition, which closes in July 2014, strengthens employer engagement throughout the grant process by requiring applicants to engage multiple employers within an industry sector, such as through industry groups and/or Registered Apprenticeship sponsors. The Department's proposed strategic investments in the FY 2015 budget request—the New Career Pathway Program and the Community College Job-Training Initiative—as well as all current and planned competitive grant programs, build upon the successes of TAACCCT by requiring robust partnerships with businesses, community colleges, and training and union organizations to ensure the success and sustainability of these critical investments.

Mr. Kingston: What policies are being developed so that the local Workforce Investment Boards can be more engaged with employers in the community they serve?

Mr. Perez: The Workforce Investment Act requires deep engagement of Workforce Investment Boards (WIBs) with the employers in the communities and regions they serve. The law requires that employers make up the majority of WIB membership, and provides states and local WIBs with a variety of flexible resources that can be used to address the needs of their dual customer base – businesses and jobseekers. Recognizing the significant role that state and local workforce investment boards play in transforming the system, DOL issued policy guidance (TEGL 33-11) to the workforce system in Program Year 2012 that

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JOB CORPS

Mr. Kingston: In January 2013, the Department suspended enrollment in the Jobs Corps program to avoid a projected budget overrun for Program Year 2012. According to the September 2013 OIG report, Job Corps could not demonstrate that it had a sound budget or spending plan, reconciled financial systems, or compared actual costs to the budget. The fiscal year 2015 budget proposes level funding for the Job Corps program and does not propose to restore enrollment to prior levels.

Is the 2015 budget for Job Corps sufficient to address recent cost overruns and systemic deficiencies in the programs financial systems?

Mr. Perez: Yes. The requested funding level for FY 2015 maintains our commitment to operating the program on sound financial footing and accounts for all costs of the program – including credentialing and other items that are important to the academic and employment success of participants. To further strengthen contract management and oversight, the FY 2015 Budget includes an increase of \$2,000,000 for 17 additional contract specialists to help support the Job Corps contracting workload.

The Employment and Training Administration (ETA) has adopted recommendations made by the Office of Inspector General (OIG) and has undertaken a variety of measures to strengthen contract oversight and financial management of the program.

In particular, Job Corps and the Department's Office of the Chief Financial Officer (OCFO) have established mechanisms for detecting potential financial and program risks to improve related policies, procedures, and internal controls, and to routinely reconcile accounting systems data. Improvements implemented since 2013 include analyzing and monitoring programmatic and financial data;

aligning the number of students with the levels supportable under the program's appropriation; improving communication between program, contracting, fiscal, and agency leadership; strengthening contract administration and oversight; and providing additional training for contracting staff.

In addition, ETA has developed a new on-board strength cost model to help the Job Corps program better track operational costs by center and project differences between centers' spending plans and actual expenditures. These actions, taken together, will address past deficiencies and prevent future issues.

Mr. Kingston: Does the Department intend to restore enrollment to the levels that existed prior to these funding issues or should we understand this to be a permanent reduction, and, if it is, what does the Department expect to do with spare capacity at many of the centers?

Mr. Perez: The reduction in contracted on-base-strength (OBS) at the end of the enrollment suspension in April 2013 was undertaken to ensure financial stability within the program and to establish an OBS level for Program Year 2013 that was supportable under the Fiscal Year (FY) 2013 appropriation, including sequestration. Reducing OBS was a critical step in ensuring that we started PY 2013 with Job Corps' total financial and budgetary commitments aligned with our appropriation. We are continuing to monitor contractor expenditures against OBS levels. Based on an increased appropriation for FY 2014 and reviews of the contract expenditures and OBS levels, ETA plans to increase OBS to a level that is supportable in PY 2014.

ETA has consulted with the Job Corps contracting community in the development of the plan to allocate increased OBS slots. The methodology considers performance, center capacity, and prioritization of high-performing Career Technical Training (CTT) programs. We recently announced the plan for increasing OBS to the PY 2014 levels, and have begun working with the Job Corps operators to implement it. Job Corps' physical capacity will be managed to accommodate the OBS increase and the full number of student slots that are supportable under FY 2014 appropriation and the FY 2015 budget request.

BUREAU OF LABOR STATISTICS

Mr. Kingston: The Department's fiscal year 2015 budget requests \$1.6 million to add an additional supplement to the Current Population Survey to conduct a Contingent Work Supplement in even years and "other" supplements in odd years. Who does the Department believe will be the primary users of these supplements and what will be the process for determining what supplements will be conducted in odd years? Since FY15 is an odd year, what supplement does the Department plan to produce with this additional funding?

Mr. Perez: Conducting new CPS supplements on a regular basis greatly enhances the value of the data by providing insights into key trends and the impact of the business cycle. The economy has changed significantly since the BLS collected the last Contingent Work Supplement (CWS) in 2005. Thus, for the recent economic downturn and recovery, we lack high-quality information about worker classification, such as the number, earnings, hours, and characteristics of workers in contingent and other nontraditional employment relationships. These data will allow data users to explore many important questions, like the types of workers who are most likely to be contingent workers – that is, to be employed temporarily – and how the prevalence of contingent workers in different industries has changed over time. This information is of particular interest to economic policymakers, but also is used by businesses, researchers, the media and the public.

During years without a CWS, the BLS will conduct a supplement on another topic relevant to the BLS mission, for example, information on workplace flexibility and work-family balance, and potential emerging topics such as entrepreneurship. This information will allow data users and decision-makers to develop a more fundamental and timely understanding of developments in the labor market. The BLS will select supplements in future odd years based on the need to collect data on emerging labor market topics. When developing new supplements, the BLS will consult with its stakeholders and advisory committees.

The first supplement for this initiative will be conducted in the year after funding is received. If funding is received in FY 2015, the BLS will work with the Census Bureau to update specifications for the FY 2016 CWS and FY 2017 Work Schedules Supplement and will research possible new topics for future supplements.

DEPARTMENTAL MANAGEMENT

Mr. Kingston: Please describe how the evaluation of program effectiveness conducted in the Program Direction and Support Office differs from the evaluations conducted by the Departmental Evaluation office. Why is staff for the Program Evaluation Office funded through the Program Direction and Support Office?

Mr. Perez: While both these activities are within the Departmental Management Account, one contains the resources for staffing the oversight of evaluations and the other funds the evaluations themselves. The Program Direction and Support line item contains salaries and expenses for a number of offices, including that of the Assistant Secretary for Policy. The Chief Evaluation Office (CEO) is within the Office of the Assistant Secretary for Policy (ASP), and thus the resources for its staffing come from the Program Direction and Support activity. Locating the CEO within ASP ensures that the evidence

generated from rigorous evaluation impacts our policy and programmatic improvement and change.

The budget activity for Departmental Evaluation contains resources for the evaluations themselves, supplemented by the set-aside contained in the General provisions. These funds are allocated according to an annual evaluation plan based on priorities included in agency learning agendas, evaluations required by statute, and studies on priorities in the Department's strategic plan. In most cases, these evaluations are conducted under the Chief Evaluation Office and are managed directly by Chief Evaluation Office staff members. Due to staff capacity constraints, some evaluations are conducted in concert with the Agencies. In those cases, the Chief Evaluation Officer works directly with Agency executive staff to determine the overall management of evaluation efforts at the Department.

VETS

Mr. Kingston: What is the status of the FY14 impact evaluation on the effectiveness of the TAP DOL Employment Workshop?

Mr. Perez: In May 2014, DOL will be selecting a contractor to evaluate the Transition Assistance Program (TAP) DOL Employment Workshop (DOLEW).

This effort will include:

- A quasi-experimental design (QED) impact analysis to analyze the impacts of the TAP DOLEW program on employment-related outcomes for separating military Service members
- A small pilot to evaluate differential impacts of new delivery approaches for the TAP DOLEW (e.g., variations to the delivery of the program, the use of social media or other modes to enhance delivery or to serve as refreshers of TAP program lessons, or variations in the visual design of TAP program or outreach documents)

Findings are expected to be available by Fiscal Year 2017.

Mr. Kingston: The FY15 Congressional Justifications note that over the next several years, the greatest number of veterans will be entering the civilian workforce since World War II, however, the Department proposes no additional funding for VETS programs. How will the Department meet increased demand for veterans' employment services in FY15?

Mr. Perez: Transitioning veterans into civilian employment remains a top priority for the Department of Labor. The Department's Veterans' Employment and Training Service and the Employment and Training Administration continue to build a job-driven workforce investment system that provides the appropriate

services to exiting service members and veterans and helps them obtain civilian jobs with career pathways in in-demand industries. These agencies work collaboratively together and with other Federal partners to ensure veterans receive enhanced services at one of the 2,500 American Jobs Centers around the country on a priority basis.

The President's FY 2015 Budget Request maintains the increases received in the FY 2014 Appropriations. This includes an increase of nearly \$14 million for the Jobs for Veterans State Grant (JVSG) program, which will increase the number of Disabled Veterans' Outreach Program specialists nationwide. DVOP specialists provide employment services to veterans with significant barriers to employment to assist them in entering and retaining employment. Additionally, under 38 U.S.C. 4103A(a)(1)(C), the Secretary has identified veterans ages 18 to 24 as an additional group who are entitled to receive intensive services from DVOP staff.

Additionally, in FY 2015 the Department is requesting, in the ETA budget, \$158 million for Unemployment Insurance Reemployment and Eligibility Assessments and Reemployment Services (REA/RES). To support transitioning veterans, a portion of these funds will be targeted to recently-separated military personnel receiving Unemployment Compensation for Ex-Servicemen (UCX) and to support an evaluation to identify the primary factors impeding the reemployment of these UCX claimants. Research has shown that both REAs and provision of reemployment services to UI claimants reduces UI duration and saves UI trust fund resources by helping claimants find jobs faster and eliminating payments to ineligible individuals. Further research shows that when both eligibility assessments and reemployment services are provided simultaneously, reemployment outcomes for claimants improve and duration of benefits is reduced.

H2-A PROGRAM

Mr. Kingston: Why did the Department of Labor change the methodology for Adverse Effect Wage Rates (AEWR) in its final rule on H-2A employment, which became effective in March 2010?

Mr. Perez: On December 18, 2008, the Department published a Final Rule in the Federal Register amending the regulations governing the H-2A program, which became effective on January 17, 2009 (the 2008 Final Rule). The 2008 Final rule created a new methodology for establishing the Adverse Effect Wage Rates (AEWR) based on published wage data for the occupation, skill level, and geographical area from the Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) survey. However, on February 12, 2010, the Department published another Final Rule that further amended the H-2A regulations, which became effective on March 15, 2010 (the 2010 Final Rule). In the 2010 Final Rule, the Department reinstated the previous wage methodology used to calculate the AEWR that was in place before the 2008 Final Rule, based

on the annual average combined hourly wage for field and livestock workers derived from the U.S. Department of Agriculture's (USDA) Farm Labor Survey (FLS). Employers who participate in the H-2A program must offer and pay their H-2A and U.S. workers the highest of the AEW, the prevailing wage, the agreed-upon collective bargaining wage, or the Federal or state minimum wage.

The Department believes this methodology is necessary in order to effectuate its statutory mandate of protecting U.S. workers from the possibility of adverse effects on their wages or working conditions. The Department determined in its rulemaking that its short-term reliance on the Occupational Employment Statistics (OES) and its calculated wage levels was not appropriate for agricultural workers, and instead returned to the decades-long practice of using the wage rates established by the USDA for agricultural farm wages.

Mr. Kingston: Did the Department consider using a different calculation or adjusting the AEW calculation to account for wage details by area, occupation, or level of skill and experience required by employers when it drafted the above mentioned regulation? If yes, why did the Department ultimately decide to reverse changes made by the final rule on H-2A employment issued in December 2008 rather than develop a more comprehensive calculation?

Mr. Perez: As explained in the preamble to the 2010 H-2A Final Rule, the Department considered other potential data sources that include earnings information for hired farm workers employed by farming establishments, such as the monthly Current Population Survey (CPS), the Annual Social and Economic Supplement (ASEC) to the CPS, and the American Community Survey (ACS). The Department determined that these other data sources did not provide the appropriate level of information in a timely manner that was needed and provided by the Farm Labor Survey.

The U.S. Department of Agriculture's (USDA) Farm Labor Survey (FLS) is currently the only available timely data source that actually uses information obtained directly from farmers and ranchers. The FLS is more consistent with both the nature of agricultural employment and the statutory intent of the H-2A program.

As previously discussed, the 2010 Final Rule is the result of the Department's review of the policy decisions underlying the 2008 Final Rule. The preamble to the 2010 H-2A Final Rule provides an extensive discussion of the Department's rationale for returning to the computation of the AEW using the annual average of combined crop and livestock workers' wages, as published by the USDA's FLS, which has been consistently used for more than 20 years.

Mr. Kingston: In its economic analysis, did the Department predict that this methodology change could amount to a 60 percent wage rate increase in just five

years for certain regions and potentially threaten the livelihood of certain agriculture work sectors?

Mr. Perez: For more detailed explanation of the rationale for changing the methodology used in calculation of the AEWR, we would like to refer you to the preamble of the 2010 H-2A Final Rule. It provides a historical background of the H-2A program; analysis of impact of importation of foreign labor on the market adjustment process to an equilibrium wage; economic justification for the use of an AEWR; as well as the methodology used by USDA in conducting the Farm Labor Surveys. Information about the methodology of the Farm Labor Survey is also publically available at: http://usda01.library.cornell.edu/usda/current/FarmLabo/FarmLabo-12-05-2013_revision.pdf.

Mr. Kingston: What process is available for the vegetable and specialty crop industry in the four adversely-affected Northern Plains states to obtain a waiver from the current AEWR for the 2014 crop season?

Mr. Perez: The statute does not provide a mechanism for the vegetable and specialty crop industry covering the four Northern Plains states to waive the current Adverse Effect Wage Rate for the 2014 crop season.

Mr. Kingston: What other administrative or regulatory relief avenues are available for adversely-affected states' vegetable industries to secure wage determination relief for 2014, 2015, and beyond?

Mr. Perez: There is no mechanism for administrative process to provide relief from the Adverse Effect Wage Rate (AEWR) for the vegetable and specialty crop industry in Nebraska. The Department's regulations at 20 CFR § 655.102(b) provide the Administrator for the Office of Foreign Labor Certification (OFLC) with some discretion by establishing special procedures, when flexibility is necessary for processing H-2A applications for certain occupations, so long as those procedures do not deviate from the Department's core obligations to ensure an appropriate test of the U.S. labor market and protect against adverse effect on the wages and working conditions of U.S. workers. Employers must demonstrate upon written application to the Administrator of OFLC that special procedures are necessary. A request for special procedures must identify the specific variance(s) to the Department's H-2A regulatory framework and provide supporting documentation justifying how the unique nature of the specific occupation(s) necessitates approval of each requested variance.

The Administrator for OFLC has granted special procedures where employers representing an industry have established that a specific occupation is unique and, therefore, incompatible with one or more provisions of the applicable program regulation. Where the Administrator establishes special procedures for a given occupation, employers filing H-2A applications under those procedures remain

subject to all aspects of that program's governing regulations, except those for which variances are articulated in the special procedures.

QUOTA/STATISTICAL HIRING

Mr. Kingston: There is much publicized in the news about OFCCP's heavy reliance on statistics in their enforcement tactics*. Without a more moderate approach and appropriate use of statistics, could OFCCP's current enforcement tactics drive the wrong response from the federal contractor community and potentially lead to a quota system in hiring, which the U.S. Supreme Court has mostly declared unconstitutional in the workplace, all to avoid expensive settlements?

(* 4/4/13, Forbes Op-Ed, A Federal Agency Promotes Discrimination By Trying To Fight It, Matthew Merrill, <http://www.forbes.com/sites/merrillmatthews/2013/04/04/a-federal-agency-promotes-discrimination-by-trying-to-fight-it/>)

Mr. Perez: OFCCP's reliance on statistics in investigating compliance with Executive Order (EO) 11246 is an appropriate component of its enforcement efforts, and is not an impermissible quota-based approach.

To assess compliance with EO 11246 and its nondiscrimination and affirmative action requirements, OFCCP reviews a subset of federal contractors each year to assess their hiring, promotion, compensation, termination and other employment practices. As part of those reviews, OFCCP not only performs quantitative analyses but also assesses a variety of other evidence, including anecdotal and other evidence. Following Supreme Court precedent, statistical evidence in this context means a statistically-significant race or sex-based difference in hiring rates among individuals who are qualified and available for the position. A difference is statistically significant if its probability of being produced by a fair employment process is less than 5%, as estimated by tests generally accepted in the statistics profession. Hazelwood School Dist. v. U.S., 433 U.S. 299, 309 n. 14 (1977).

In cases with statistical disparity, OFCCP investigators will review documents and interview managers and workers. In general, OFCCP would not pursue a matter solely on the basis of a statistical disparity where a contractor establishes a legitimate and valid explanation for that difference or where the contractor has established that the statistical disparity does not exist. OFCCP will issue a notice of violation where there is an ample evidentiary record supporting the findings of discrimination. If OFCCP issues a notice of violation, it will negotiate conciliation agreements with contractors that wish to voluntarily correct the violations.

Mr. Kingston: Of course equal opportunity and freedom from discrimination are very important. But I'm concerned about what appears to me to be somewhat

of a quota system the OFCCP has put in place. OFCCP appears to have adopted a standard that hiring decisions made by contractors must almost exactly reflect the diversity of the applicant pool. Essentially it is a statistical analysis.

I have read several press releases issued by OFCCP that seem to reflect a quota system.

- One employer was required to hire 50 qualified women, African-Americans, Asian and Hispanic decent employees (Balfor Electric)
- Another employer should have hired 37 Hispanics and African Americans and 2 more women (Alcoa Mill Products)
- A third was required to make 17 job offers to both African Americans and Caucasians (Jacinto Port)
- My favorite states that one employer needed to hire 1703 workers including “men and women as well as African-American, Caucasian and Native American job seekers, as well as job seekers of Hispanic and Asian descent.” (**3/22/12, Shipping giant FedEx to pay \$3 million to settle charges of hiring discrimination brought by US Department of Labor, <http://www.dol.gov/opa/media/press/ofccp/OFCCP20120507.htmHelp>)

Normally, a discrimination charge means that one group was disadvantaged when compared to another. Help me understand how this employer this could have essentially discriminated against everybody? When there are varied results like this, doesn't that demonstrate that an employer is not discriminating?

Mr. Perez: In resolving violations of EO 11246, OFCCP relies not on quotas but on providing appropriate remedies to those class members who were unfairly screened out by the contractor's biased policies. Each of the conciliation agreements described in this question reflects this approach. In the Federal Express multi-establishment case, for example, 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 Federal Express hiring process screened out different groups at the different locations on the basis of race or gender in various arbitrary ways. As a result, the company agreed to provide job offers a subset of the unfairly rejected job seekers, and to completely revise its hiring process for the positions at issue.

Mr. Kingston: Another interesting press release was against Goodwill Industries which alleged Goodwill discriminated against men by not hiring them for entry-level jobs at its donation centers.

- Can you clarify: is it the position of the OFCCP that men are disadvantaged in the workforce?
- Was it a problem for a social service agency to attempt to help a known disadvantaged group, women, in this country?
- Isn't this exactly what the result is when you essentially demand quota hiring depending only upon who happens to apply?

Mr. Perez: Executive Order 11246 prohibits discrimination on the basis of race, sex, national origin, religion and color. Sex-based discrimination against both women and men is illegal. In the Goodwill settlement referenced above, OFCCP had adduced evidence that Goodwill engaged in a practice of favoring women for hire into certain positions, based on the perception that women had better customer service skills. That kind of sex-stereotyping is improper and illegal, and it harms both men and women by perpetuating the mistaken view that certain groups of people are inherently better qualified for certain kinds of jobs.

Mr. Kingston: Why does OFCCP continue to insist on what amounts to “quota hiring” in failure to hire investigations of entry level unskilled labor by not examining or crediting company explanations of the reasons not hired?

Mr. Perez: OFCCP does not insist on any hiring quotas in entry-level hiring or any other hiring cases. The agency always requests and considers any information that contractors provide to explain a disparity in hiring rates or any other employment practice. OFCCP investigators will review documents and data and also interview employees and company officials regarding these decisions. When contractors provide credible, legitimate, nondiscriminatory and legally sufficient explanations for violations or potential violations that OFCCP has identified, the agency will adjust its findings accordingly. This includes explanations that address portions of the violation or information that would properly mitigate some portion of the back pay owed to affected workers.

Mr. Kingston: Do you consider the ‘totality of the circumstances’ to determine whether discrimination exists, such as the make-up of the community, the establishment’s employee workforce demographics as a whole, etc.?

Mr. Perez: OFCCP engages in a full and robust evidentiary assessment in any compliance evaluation or complaint investigation where there is a potential discrimination violation. OFCCP considers any and all available evidence in light of applicable legal standards. The availability of qualified workers within the relevant internal and external labor markets may be an important factor, although typically the agency will first consider reliable data on actual qualified applicants before looking to general availability data.

Mr. Kingston: Do you agree that quota hiring is prohibited by Title VII of the Civil Right Act of 1964?

Mr. Perez: Quotas are illegal and we do not condone them.

Mr. Kingston: How do you believe a contractor is supposed to comply with OFCCP requirements absent quota hiring when all the agency focuses on is statistical hiring equivalents?

Mr. Perez: OFCCP reviews and assesses a variety of evidence, including statistical, anecdotal and other evidence to determine if a contractor is in compliance with the nondiscrimination requirements that apply to federal contractors. A contractor demonstrates compliance with affirmative action requirements through its outreach efforts, monitoring and assessment of its personnel actions to assure they are fair and non-discriminatory, and record keeping, for example.

Mr. Kingston: Do you honestly believe that “statistics only” proves discrimination?

If “no”: Then you agree that statistics alone will never support your agency’s enforcement? What other findings must be present in order for your agency to support further enforcement against a contractor? Do you look for actual different treatment between races/gender/disabled, etc? Don’t you have contractor’s that you have enforced against or entered into settlements for which there was no evidence of different hiring processes or decision-making between the genders or races?

If “yes”: A statistics only finding is an attempt to enforce quota hiring, isn’t it? How is it different? Isn’t quota hiring illegal under Title VII?

Mr. Perez: As the Supreme Court has explained, statistics may at times be “the only available avenue of proof . . . to uncover clandestine and covert discrimination,” International Brotherhood of Teamsters v. United States, 431 U.S. 324, 339 n. 20 (1977) (internal citation omitted), and it is clearly established law that in some cases, statistics alone can establish discrimination. *Id.* at 339 (“We have repeatedly approved the use of statistical proof, where it reached proportions comparable to those in this case, to establish a prima facie case of racial discrimination in jury selection cases, *see, e.g., Turner v. Fouche*, 396 U.S. 346; Hernandez v. Texas, 347 U.S. 475; Norris v. Alabama, 294 U.S. 587. Statistics are equally competent in proving employment discrimination.”) (S.Ct. and L. Ed. citations omitted).

In all cases, the agency provides contractors with the full opportunity to address OFCCP’s statistical findings. Because the agency considers contractor

explanations, OFCCP would not generally pursue a statistical disparity where a contractor provides a legitimate and valid explanation for that difference.

THE LAW OF LARGE NUMBERS

Mr. Kingston: Surely you are aware that employers with large applicant pools who make the EXACT same hiring decisions as those with smaller applicant pools will fall outside the acceptable statistical deviation because of the “law of large numbers”.

- Can you tell us how your agency accounts for the mathematical reality that employers with large applicant pools will almost always have adverse impact in their selection decisions?
- Do you use this mathematical reality to target specific industries, like manufacturing, with larger applicant pools knowing that you are more likely to get a financial settlement?

Mr. Perez: OFCCP does not make assumptions about the hiring practices of contractors based on their size or overall hiring rates. Instead, the agency analyzes the data to determine if those practices are fair and nondiscriminatory. It is OFCCP’s policy, in conducting discrimination analyses based on race and sex under EO 11246, to follow the principles of Title VII of the Civil Rights Act of 1964. The unit of jobs and the specific race, ethnic or gender groups that OFCCP analyzes depend on the facts of each case.

REFUGEES

Mr. Kingston: The federal government has a number of programs focused on supporting the resettlement of refugees from war-torn areas, “providing new populations with opportunities to maximize their potential in the United States and linking people in need to critical resources to assist them in becoming integrated members of American society*”. Many U.S. companies hire new immigrants that have refugee status. In fact, it would be illegal not to hire these individuals who are authorized to work simply because of their immigrant status. NGOs and religious organizations work diligently with government agencies to place refugees with willing employers across the country.

The OFCCP is working counter to this cause by employing a statistics-only methodology and charging employers with discrimination for hiring refugee populations. As employers seek to reduce their exposure to risk from charges of discrimination, is it possible that OFCCP’s approach may have a chilling effect on aid agencies’ ability to place, and employers’ willingness to hire refugees?

(*Purpose of the U.S. Department of Health and Human Services Office of Refugee Resettlement. At least four agencies are listed as partners and

collaborators in this effort: Department of Homeland Security, Department of Justice, and Department of State.)

Mr. Perez: 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 and can do so without discriminating against any workers based on race, sex or other protected categories.

TRANSPARENCY

Mr. Kingston: President Obama said, "My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government." (1/21/09, President's Memorandum on Transparency and Open Government - Interagency Collaboration, http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_fy2009/m09-12.pdf)

Yet I have heard from my constituents about an increased lack of transparency and collaboration with the OFCCP, an unwillingness to openly share findings in compliance reviews, a regulatory agenda that does not solicit or listen to the concerns of the contractor community, and an almost bullying stance when it comes to dealing with the federal contractor community -- companies that employ approximately 22 million workers in the United States*.

What are you doing to ensure that all labor departments live up to the spirit of transparency, public participation and collaboration required by President Obama?

(*Example #1 - OFCCP published, in their words, an "historic" overhaul to the Section 503 disability regulations in December 9, 2011 and allowed only 60 days for the public comment period, despite the fact that this occurred over the busy holiday and year-end period. When asked for an extension OFCCP waited until the day before comments were due and granted a very short 2 week extension. These proposed regulations have since been shown to vastly underestimate the cost burden that OFCCP presented to the OMB.

Example #2 - OFCCP has recently published Directive 307, Procedures for Reviewing Contractor Compensation Systems and Practices. Unfortunately this Directive is so vague it has left the contractor community with very little insight into how they can conduct their own pro-active self-critical compensation analyses. Again, the Directive was published without public participation and discussion with the contractor community.)

Mr. Perez: Former Governor and Secretary of Homeland Security Tom Ridge said in a *Wall Street Journal* op-ed that OFCCP's "rule-making process should be 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 us with a wealth of 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.

With regard to Directive 307, OFCCP issued this directive based on requests from the contractor community in response to OFCCP's proposal to rescind existing 2006 guidance on pay discrimination. Contractors and their representatives requested that OFCCP provide more clarity on its review of contractor pay systems and practices following the rescission of the old guidance. In developing the Directive, OFCCP carefully considered numerous written comments that were received in response to the notice of Rescission, as well as several years' worth of informal dialogue and discussion with contractors and their representatives.

Directive 307 provides a transparent, step-by-step explanation of how the agency reviews contractor pay systems and practices. The agency publicly released Directive 307 to provide greater transparency and to support better voluntary compliance. OFCCP has also provided detailed FAQs and other compliance assistance materials on its website (<http://www.dol.gov/ofccp/CompGuidance>), and has conducted public webinars and various compliance assistance sessions on compensation over the last year. OFCCP continues to engage in dialogue and discussion with contractors and their representatives regarding compensation investigations and approaches to voluntary compliance.

AUDIT SELECTION

Mr. Kingston: There is a lack of clear understanding of how your agency selects contractors for auditing. How is it that a single company is selected for multiple simultaneous audits while others go for years with no audits if the secret selection system is truly neutral? Why won't your agency share the selection criteria, factors and formula with contractors?

Mr. Perez: OFCCP's Federal Contractor Selection System (FCSS) is a neutral selection system that identifies supply and service 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 data, and Census data. The list is further refined and sorted by applying a number of neutral selection factors such as contractor dollar amount, number of employees, contract expiration date, and industry. These factors are administratively "neutral" since they apply to all contractors rather than any one particular contractor. It is important also to note that OFCCP's list is not, nor is it required to be, random, which would require an equal probability of selection from the full population of federal contractors. Rather, OFCCP focuses its list and its resources according to neutral criteria such as those listed above.

The number of establishments selected for a compliance review in a scheduling cycle for any one company has varied over time. A federal contractor may have hundreds or even thousands of establishments. The number that would appear on any one scheduling list typically represents a very small percentage of a contractor's total establishments eligible for review.

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>.

NEW VETERAN & DISABILITY REGULATIONS

Mr. Kingston: How did your agency calculate the cost to employers to implement the new regulations for protected vets and persons with disabilities? How do you explain the significant differences between the costs calculated by the OFCCP and the costs calculated by the contractor community?

Mr. Perez: OFCCP calculated the cost to implement the new regulations for protected veterans and individuals with disabilities using some of the cost estimates provided by contractors, suggested by commenters, and based on the agency's own research. For example, in response to public comments, the final regulatory impact analysis increased the cost estimates for compliance with the rules' provisions for contractors using some of the cost estimates suggested by commenters and the agency's own research. OFCCP also provided low and high

range estimates for certain requirements. These ranges were based on estimates provided by contractors, the comparison of contractor establishment numbers, assumptions about the use of automated application and human resources information systems, and/or contractor size.

Mr. Kingston: You have stated a 7% goal of disabled people, individually for each and every job group a contractor has. How did you come to establish such a goal?

- Did you base the goals per sub-group on any research which supports that there are actually that amount of disabled people in each and every sub-group, in each and every community, which are qualified for the jobs in each sub-group?
- If you did not use real research to support the goal, how do you know if you are too high or too low for any particular community or job group?

Mr. Perez: OFCCP established the utilization goal using disability data collected as part of the American Community Survey (ACS). The agency based the goal on the 2009 ACS disability data for the “civilian labor force” and the “civilian population,” first averaged by EEO-1 job category, and then averaged across EEO-1 category totals. Specifically, OFCCP used the mean across these EEO-1 groups to estimate that 5.7% of the civilian labor force has a disability as defined by the ACS. Due to the fact that ACS uses a narrower definition of disability, this 5.7% does not include all individuals with disabilities as defined under the broader definition in Section 503 and the ADAAA.

This number also does not take into account discouraged workers, or the effects of historical discrimination against individuals with disabilities that has suppressed the representation of such individuals in the workforce. Discouraged workers are those individuals who are not now seeking employment but who might do so in the absence of discrimination or other employment barriers. Therefore, OFCCP adjusted the 5.7% after estimating the size of the discouraged worker effect. The agency compared the percent of the *civilian population with a disability* (7.42 percent per the ACS definition) who identified as having an occupation to the percent of the *civilian labor force with a disability* (5.7 percent) who identified as having an occupation to arrive at the discouraged worker effect. The result, rounded, is a 7 percent utilization goal for individuals with disabilities.

Mr. Kingston: Did you do any research or consult anyone to understand whether disabled people actually want to self-identify themselves as disabled?

- How can a contractor be held accountable for a goal that either relies on disabled people’s desire to be self-labeled disabled or a contractor’s presumptions about disabled status?

Mr. Perez: Voluntary self-identification of disability is important to assess the effectiveness of outreach and recruitment activities and to the application of the utilization goal. As noted in the preamble to the Section 503 final rule, the vast majority of individuals with disabilities and disability advocacy organizations were supportive of the rule's requirement that contractors invite applicants and employees to voluntarily self-identify as having a disability. See 78 FR 58682 at 58690. People with disabilities and disability advocacy organizations expressed similar support for the invitation to self-identify requirements at various town hall meetings and listening sessions OFCCP conducted as part of the rulemaking process.

Mr. Kingston: How will you determine if a failure to meet a goal is actually because there is not that percentage of disabled people in the local community which are qualified for jobs in a particular job group? Or will you automatically presume discrimination based upon a lack of meeting the unresearched goal?

Mr. Perez: OFCCP does not view a contractor's failure to meet the aspirational 7% national utilization goal as a finding or admission of discrimination because the goal is neither a quota nor a ceiling. Specifically, if a contractor fails to meet the goal, it must determine whether and where impediments to equal employment opportunity exist. If the contractor finds existing impediments, it must develop and execute action-oriented programs to correct the identified problem area(s) to ensure that it is meeting its affirmative action obligations for qualified individuals with disabilities.

OFCCP recognizes that not all individuals with disabilities will voluntarily self-identify, and contractors will not be held accountable for this. However, contractors will be held accountable for extending the invitation to self-identify as an individual with a disability and for applying the seven percent aspirational goal to their job groups or workforces. If there are no impediments to equal employment opportunity, and it is a lack of voluntary self-identification or lack of qualified individuals in the community that is the cause of a failure to meet the goal, a violation will not be found and corrective action will not be required.

Mr. Kingston: Although OFCCP asserts that the new veterans regulation "benchmarks" and the disability regulation "goals" will not be used in and of themselves for enforcement or to seek damages/penalties, the implication is that OFCCP will still conduct some type of statistical analysis on the new data being collected. Describe how that data will or will not be used for enforcement purposes?

- Will your agency, in fact, use the data to accuse contractors of discrimination simply by not having the stated 7% goal within each and every job group?
- How will you make that determination?

Mr. Perez: OFCCP will not sanction, fine or penalize contractors for simply failing to meet the 7% utilization goal in one or more job groups. The goal is aspirational. It is neither a quota, nor a ceiling limiting or restricting the employment of qualified individuals with disabilities. The goal is a management tool that informs contractors' decision-making and provides real accountability. In practice, it is anticipated that the goal will be used as yardstick, a measurable objective, against which contractors evaluate the effectiveness of their outreach to and recruitment of individuals with disabilities, and assess whether there are any remaining barriers to equal employment opportunity for these individuals. The VEVRAA benchmark is, similarly, a management tool to assist contractors.

OFCCP also anticipates that the data related to the Section 503 goal and the VEVRAA hiring benchmark will be used by contractors, in addition to other factors to inform their assessment of the effectiveness of their outreach and recruitment efforts, and in their assessment of whether there are any remaining barriers or impediments to equal employment opportunity for veterans and people with disabilities. OFCCP will look at this data in addition to other factors, during compliance evaluations of contractors, when assessing whether a contractor's conclusions regarding the effectiveness of its outreach efforts and the existence of remaining barriers to equal opportunity is reasonable.

Mr. Kingston: Current estimates suggest that as many as 92% of all veterans are male. How would the OFCCP expect contractors to prioritize their efforts when they have both a "benchmark" for veterans and goal/problem area for hiring females? Won't one effort hurt the other automatically?

Mr. Perez: The statutes and regulations enforced by OFCCP require that all groups be given an equal opportunity to apply and compete for available jobs and that the best qualified person be hired. The VEVRAA rule does not require contractors to meet the hiring benchmark, nor does it penalize contractors solely for failing to meet it. The benchmark provides a measurement tool that will encourage contractors to be inclusive of protected veterans, but will not encourage or require that they discriminate against non-veterans through preferences or quotas.

Mr. Kingston: The OFCCP regulations state that outreach must be "effective". Please define "effective" and how an employer will know that they have met this vague measurement.

Mr. Perez: OFCCP deems outreach efforts "effective" when they lead to positive results. Such results may take any of a number of forms. For example, effective outreach may result in an increase in the number of applicants with disabilities, in the number of applicants with disabilities for particular professional or more highly skilled positions, or in the number of qualified individuals with disabilities who are hired or who are hired into specific professional or more highly skilled positions. A contractor that assesses its

efforts, as required by the regulations, will have the information it needs to determine whether positive changes are occurring in the composition of its workforce, hires and applicant pool, and so determine whether its outreach efforts are effective or in need of adjustment. If a contractor determines that its outreach efforts are not effective and is unsure how to strengthen them, it may contact OFCCP for technical assistance, free of charge.

Mr. Kingston: For the new section 503 regulations, it appears that the OFCCP Director has the sole authority and discretion to raise or lower these hiring goals. What criteria will be considered in order to adjust this goal and what input will the contractor community or legislators have before changes are made?

Mr. Perez: The new regulations provide that the Director of OFCCP will “periodically review and update, as appropriate, the utilization goal.” 41 CFR 60-741.45(c). OFCCP will conduct this review by analyzing the relevant data that is available at the time of the review. This will include such factors as the data regarding the labor force availability, unemployment, and labor force participation rates of individuals with disabilities from the Census Bureau’s American Community Survey (ACS) and the Bureau of Labor Statistics (BLS). OFCCP will notify the public that it is reviewing the goal, and will, as part of that review, solicit and consider input from all of its stakeholders, including Congress and the contractor and disability communities.

OUTREACH

Mr. Kingston: In an era of the internet, why would OFCCP impose expensive and outdated outreach efforts to the disabled community and to protected veterans when the availability of corporate jobs is well known to anyone through the local job service or by reviewing company websites? How do you think you are helping the disabled and protected veterans by forcing contractors to expend resources in such a fashion when you could focus your efforts on creating online, easily accessible resources?

Mr. Perez: Both Section 503 and VEVRAA have long required that contractors engage in outreach and recruitment efforts. The revised regulations require contractors to document these efforts, assess their effectiveness, and, if overall their efforts are not effective, to change them. However, the regulations do not prescribe specific outreach or recruitment methods, nor do they require contractors to engage in outreach to specific groups or organizations. Rather, contractors have the flexibility to utilize the outreach activities that best meet their individual needs. Contractors, thus, may choose to conduct outreach or recruitment activities via the Internet, for example, by posting job openings on a job board maintained by a disability advocacy organization or veterans’ organization.

Mr. Kingston: How is it possible that OFCCP's current most frequently cited violation is failure to outreach to the protected veterans and disabled communities when there has been no change of regulations, until now, since 2000 and the same outreach the company's accomplished without citation in the Clinton and Bush administrations are now found not sufficient to meet the requirements of the Clinton-era administration regulations?

Mr. Perez: In recent years, OFCCP's most frequently cited violation has been failure to conduct outreach to protected veterans and persons with disabilities. This increase is due largely to the implementation in 2010 of a more comprehensive enforcement protocol that would capture compliance with the range of laws that OFCCP enforces. Under the new approach, full desk audits, including confirmation of outreach and mandatory job listings, are done in all OFCCP compliance evaluations.

COMPENSATION AUDITS

Mr. Kingston: Why does OFCCP continue employee level compensation audits when OFCCP has now proved, through three years of employee level audits involving over 15,000 companies and over approximately 10 million employee compensation files, that there is very little compensation discrimination to be found in America?

- Have you even analyzed how much these compensation audits cost contractors to defend and OFCCP to pursue?
- Have you heard estimates of perhaps a hundred million dollars per year?
- Has the agency made any efforts to understand the true costs of these actions?

(If the director mentions the "pay gap" as a reason for continuing compensation audits:)

The problem with saying that women on average make 75-77 cents for every dollar a man makes is that men often select higher-paying careers/jobs more often than women do. Even the 2011 White House report: *Women in America: Indicators of Social and Economic Well-Being** finds that pay disparity exists because men choose different, and often higher-paying, jobs. Would it then make more of an impact on pay disparity to educate women on better career, rather than accusing employers of pay discrimination?

(* http://www.whitehouse.gov/sites/default/files/rss_viewer/Women_in_America.pdf)

<http://www.cbsnews.com/news/the-gender-pay-gap-is-a-complete-myth/>)

Mr. Perez: OFCCP's past practices for identifying and addressing systemic pay discrimination have not been sufficiently robust to fully realize the promise of EO 11246 protection. As noted in its 2013 decision to rescind the existing agency guidance on systemic pay discrimination, OFCCP relied on an approach that failed to reflect the prevailing legal standards applied by other federal agencies and courts, and improperly limited the kinds of evidence and analysis it could consider (78 FR 13508, February 28, 2013). Since the Rescission, OFCCP has begun to increase its systemic pay discrimination enforcement results. In 2013, the agency recovered approximately \$1.2 million for 964 workers, and over the last year has doubled the average size of its pay discrimination settlements. OFCCP expects this trend to continue and increase during 2014. (OFCCP cannot verify the stated figures of 15,000 establishments or 10 million employee records.)

Regardless, existing research suggests that OFCCP's current rate of finding systemic pay violations, although increasing, may not yet reflect the true baseline violation rate. Women earn less than men in most common occupations – whether they are male-dominated or female dominated. Ariane Hegewisch, Claudia Williams, Vanessa Harbin, *The Gender Wage Gap by Occupation* (2012), available at: <http://www.iwpr.org/publications/pubs/the-gender-wage-gap-by-occupation-1/>. An extensive body of social science research studies document persistent pay gaps for female and minority workers, gaps that cannot be fully explained by differences in skills, qualifications, occupation, work schedule or other common and potentially non-discriminatory factors. (Francine D. Blau & Lawrence M. Kahn, *The U.S. gender pay gap in the 1990s: slowing convergence*, 60 *Industrial and Labor Relations Review* 45 (2006).) As the cited 2011 White House report documents, the pay gap exists at all levels of education – this report does not conclude that occupational differences explain the gap. More recently, the Council of Economic Advisors explained in a 2013 report issued by the White House Equal Pay Task Force: “While occupational segregation is sometimes described as a simple matter of women’s choices, historical patterns of exclusion and discrimination paint a more complex picture.” (White House Equal Pay Task Force, *Fifty Years After the Equal Pay Act* (June 2013), available at http://www.whitehouse.gov/sites/default/files/equalpay/equal_pay_task_force_progress_report_june_2013_new.pdf). Economists estimate that as much as 40 percent of the gender pay gap is not explained and is attributable to discrimination.

For these reasons, OFCCP continues to prioritize finding and addressing systemic pay discrimination by federal contractors and improving its ability to review contractor pay systems and practices. OFCCP expects its improved enforcement protocol will lead the agency to identify and address more incidents of systemic pay discrimination.

OFCCP has no information that would support the cited cost estimates.

Questions from Representative Steve Womack

OFCCP'S BUDGET

Mr. Womack: How much of the OFCCP's funding is dedicated to enforcement? How many FTEs are dedicated to enforcement? How much of the OFCCP's funding is dedicated to compliance assistance? Of the funding dedicated to compliance assistance, what amount is used to provide technical assistance to contractors? Of the funding dedicated to compliance assistance, what amount is used to host community-engagement and worker-education events? How many FTEs are dedicated to compliance assistance? How much of the OFCCP's budget is dedicated to training its employees?

Mr. Perez: The FY 2014 OFCCP budget is comprised of a single year appropriation totaling \$104,976,000, of which approximately three-quarters is allocated to employee compensation and the remainder to other operating expenses. Currently, OFCCP has 411 full time compliance officers whose primary duties are conducting compliance evaluations, providing compliance assistance for the federal contracting community, and participating in stakeholder outreach activities, as well as 89 supervisory compliance officers. OFCCP's budget and staff are not specifically allocated to enforcement or compliance assistance, and most field staff are engaged in both activities.

With respect to the provision of compliance assistance, OFCCP conducts over 600 compliance assistance events per year to educate contractors about their OFCCP obligations and provide assistance outside the context of a compliance evaluation. OFCCP also holds webinars and small group sessions and participates in local Industry Liaison Group meetings. These activities are conducted not only by the compliance officers, but also by many of the agency's managers.

Additionally, OFCCP conducts outreach events for workers or community members. In FY 2014 we implemented a strategic outreach effort focused on key populations and building meaningful relationships with stakeholders, and have plans to complete 195 outreach events.

In regard to employee training, in FY 2013, although sequestration limited our ability to provide in-person staff training, we were able to provide in-person training on the new compensation directive to every region in FY 2013 and FY 2014. Moreover, OFCCP conducted over 40 webinars to train OFCCP staff on various topics related to the new Federal Contract Compliance Manual and other enforcement or outreach related topics. In FY 2014, we anticipate continuing the emphasis on training via webinars, as well as dedicating limited funds to support in-person employee training. We plan to increase funds for in-person training in future budget requests.

LENGTH OF OFCCP AUDIT

Mr. Womack: Please provide answers for each OFCCP region. From the initial desk audit submission to final resolution:

- What is the average length of an OFCCP audit?
- How many audits have lasted one year or less?
- How many audits have lasted more than one year but no more than two years?
- How many audits have lasted more than two years but no more than three years?
- How many audits have lasted more than three years?
- Of all the current open audits, what is the oldest unresolved audit?
- How many audits or reviews conducted by the OFCCP are initiated by employee complaints?

Mr. Perez: The average length of an OFCCP audit is 173 calendar days (or just under 6 months). Across the regions this number ranges from 149 to 195 depending on the issues that need to be resolved in any particular compliance evaluation. Since the implementation of Active Case Enforcement (ACE) (the new enforcement protocol mentioned in response to Mr. Kingston's question on outreach), at the end of 2010, 10,187 audits (or 93%) have lasted one year or less. This ranges across the regions from 90% to 96%. Since the implementation of ACE, 661 audits (or 6%) have lasted more than one year but less than two, ranging from 3% to 9% across the regions; and 62 (or just over .05%) of audits have lasted more than two years but no more than three. This value is less than 1% across all OFCCP regions. Only two audits have lasted more than three years since the implementation of ACE.

OFCCP's oldest unresolved audit, Bank of America (BOA), was scheduled in November 1993 as Nation's Bank Corporation (prior to BOA's acquisition of Nation's) and is pending before the Administrative Review Board. The case opened in 1993 and, after a thorough compliance evaluation, OFCCP referred it to the Department of Labor (DOL) Solicitor's Office for enforcement proceedings. The administrative complaint, filed in 1997, alleged unlawful discrimination against minority teller, clerical, and administrative applicants. From 1997 to 2004, the Bank unsuccessfully contested OFCCP jurisdiction both in Federal Court and in DOL's administrative forum. From 2004 to 2010, the matter went through the administrative process on the merits, and in January 2010, the Administrative Law Judge (ALJ) issued a Recommended Decision and Order, ruling that the Bank intentionally discriminated against African-American applicants for entry-level positions. The parties conducted the remedies hearing and filed briefs regarding remedies in 2013, upon which the ALJ issued a decision ordering the Bank to pay over \$2 million in back pay and offer jobs to the affected class. The Bank filed Exceptions to this decision and the case is currently pending before the ARB. The complexity of the case coupled with the fact that various

issues were litigated not only through the administrative courts but also the federal courts significantly lengthened the process.

OFCCP conducts about 200 investigations annually as a result of complaints.

COMPLIANCE ASSISTANCE

Mr. Womack: Does the OFCCP have processes in place to allow contractors to reach out for compliance assistance?

Mr. Perez: OFCCP has a number of processes in place to allow contractors to reach out for compliance assistance. For contractors scheduled for compliance evaluations, the scheduling letter informs the contractor to contact OFCCP if it has questions related to the compliance evaluation process. For contractors that are interested in general compliance assistance, the OFCCP website at www.dol.gov/ofccp has a host of compliance tools in the section entitled "Federal Contractor Corner." Furthermore, the Regional Offices all conduct outreach sessions to educate the contractors in their respective regions of their obligations. If a contractor has specific questions, OFCCP provides compliance assistance when the contractor calls the National Office, Regional Office, or District Office. The information for contacting OFCCP is found on the main OFCCP web page site under the "Contact Us" Section.

RETALIATION

Mr. Womack: Has the OFCCP ever been accused of or retaliated against a contractor? Please provide all the details surrounding the situation, including the regional or district office involved, the name of the contractor, and how the issue was resolved.

Mr. Perez: Occasionally a federal contractor challenges OFCCP's neutral scheduling process as retaliatory when it has one or more establishments selected for a compliance evaluation. When this happens, OFCCP contacts the contractor to discuss its scheduled facilities and to assure it that the facilities were selected neutrally. In most instances, this proactive outreach has resulted in contractors submitting their affirmative action plans. In other instances, OFCCP has had to pursue enforcement proceedings.

Mr. Womack: Does the OFCCP have processes in place to prevent retaliation against contractors? If so, please explain the processes. If not, why?

Mr. Perez: As noted previously, OFCCP initiates the vast majority of its compliance evaluations through its FCSS, which identifies federal contractor establishments for a compliance evaluation. Under no circumstance in the development of the FCSS list does OFCCP target any particular federal contractor for a compliance evaluation. Moreover, for each and every scheduling list,

OFCCP's detailed methodology is reviewed and approved by DOL's Office of the Solicitor to ensure that it meets the agency's Fourth Amendment obligations.

REQUESTS FOR INFORMATION

Mr. Womack: Are there processes in place at the OFCCP to ensure that contractors are not forced to produce the same documents multiple times in the same audit? Does the OFCCP keep a record of all requests for information it makes, including the date and nature of the request, how much time the contractor is given to respond, and the date the contractor provided the requested information? Has the OFCCP ever required a contractor to produce information in 24 hours or less?

Mr. Perez: OFCCP has a robust quality assurance and training program to ensure that compliance officers conduct compliance evaluations and complaint investigations with high quality and with minimal burden and duplication to federal contractors. OFCCP has a strict protocol for its case file organization and documentation, and compliance officers at all levels are trained on this protocol. In addition, as part of OFCCP's quality assurance program, case files are reviewed quarterly to ensure case files are complete, orderly, and compliance activities chronologically ordered and fully documented. If you have concerns about a specific request for information by OFCCP, the Department can review its files and provide a response.

TRAINING

Mr. Womack: Does the OFCCP conduct office-wide training, including training for employees in the regional and district offices, to ensure that OFCCP regulations are interpreted and enforced consistently across the country?

Mr. Perez: Yes, OFCCP conducts internal training for its offices nationwide. Newly hired compliance officers are trained using a Basic Compliance Officer curriculum that shows compliance officers how to conduct compliance evaluations and complaint investigations. Additionally, OFCCP holds numerous continuing education webinars to keep employees' skills up to date and to instruct them on changes in regulatory requirements and policy. For example, since the announcement of the new Section 503 and VEVRAA regulations in August, 2013, OFCCP provided its staff with 16 training sessions. These sessions covered topics ranging from an overview of the new regulations' requirements to assessing compliance with components of the new regulations. The training sessions also included a case study and numerous panel discussions to work through any questions on the implementation of the regulations. In FY 2013 and FY 2014, OFCCP provided in-person training on the new compensation directive to every region.

NUMBER AND SIZE OF FEDERAL CONTRACTORS

Mr. Womack: How many federal contractors are subject to OFCCP regulations? Of all the federal contractors subject to OFCCP regulations:

- How many have government contracts that are less than \$100,000?
- How many have government contracts that are \$100,000 - \$199,000?
- How many have government contracts that are \$200,000 - \$299,000?
- How many have government contracts that are \$300,000 - \$399,000?
- How many have government contracts that are \$400,000 - \$499,000?
- How many have government contracts that are \$500,000 - \$1,000,000?
- How many have government contracts that are \$1,000,000 - \$10,000,000?
- How many have government contracts that are \$10,000,000 or greater?

Mr. Perez: USASpending.gov is a publically available transactional database that includes all federal government contracts. However, no government-wide database currently exists for identifying federal contractors, contractor establishments or locations, and subcontractors meeting OFCCP's jurisdictional thresholds. As a result, OFCCP typically relies upon multiple data sources when determining the universe of contractors and contractor establishments that meet the agency's jurisdictional threshold. These sources include, but are not limited to, the Federal Procurement Data System (FPDS), the Employer Information EEO-1 Reports submitted annually to the Equal Employment Opportunity Commission, and the Veterans' Employment and Training Service VETS 100-A Information Collection submitted annually to the Department of Labor. Using these sources, OFCCP has estimated that between 171,275 and 251,300 contractor establishments are subject to OFCCP regulations, representing between 45,996 and 67,919 contractor companies. The low ends of these ranges are based on the Fiscal Year 2009 EEO-1 Reports; the high ends, on the 2010 VETS 100-A Information Collection.

Questions from Representative Chuck Fleischmann**WAGE RECORD INTERCHANGE SYSTEM 2**

Mr. Fleischmann: The Wage Record Interchange System 2, or WRIS 2, was established to facilitate the aggregation, analysis, and availability of reporting and performance requirements for Federal or state training and education programs, while maintaining the confidentiality of personal identifiable information. Currently, a number of states are reporting poor match rates when submitting queries through WRIS 2. There have also been reports of insufficient technical assistance when it comes to implementing WRIS2, which has left a number of states reluctant to participate in WRIS2, as well as caused a number of states to agree to participate, but then not actually use the system.

What is the Administration doing to ensure that the exchange system is working properly? What actions to you intend to take to ensure that states are getting the technical assistance they need to adequately use participate in the system?

Mr. Perez: Department oversight of the WRIS/WRIS2 system includes conducting regular confidentiality and compliance reviews in accordance with the data sharing agreements. These reviews assess the participating states' agencies that use or have access to individual level wage data obtained through WRIS or WRIS2 and verify that these entities are adhering to the requirements of the WRIS/ WRIS2 Data Sharing Agreements. Third party entities only receive aggregate data, which does not require the same safe-guards; compliance reviews do not cover the third party entities.

The Wage Record Interchange System (WRIS) and WRIS2 are governed by the data sharing agreement between the signatory states and the Department's Employment and Training Administration (ETA). States' WRIS or WRIS2 participation and implementation is voluntary and governed by the requirements of the data sharing agreements, which are in accordance with both federal requirements for the confidentiality and disclosure of state unemployment compensation information and state law. Signatory states and ETA comprise the membership of WRIS and WRIS2 Advisory Groups, which meet once per quarter for WRIS and once every two quarters for WRIS2. The Advisory Group meetings serve as a venue for communication and discussion of operations, recommendations for improvement, technical assistance needs, and other WRIS or WRIS2 policy and operational issues.

The operations contractor who handles the technical operations of the Interstate Connection Network (ICON) within which WRIS and WRIS2 operate, monitors the exchange of UI wage data requests and responses from participating states' agencies. ETA works closely with the operations contractor to address any issues that arise with regard to the continued facilitation of interstate wage data exchanges.

ETA actively provides technical assistance regarding the WRIS and WRIS2 initiatives to participating states. In addition to the WRIS and WRIS2 Advisory Group meetings, during which technical assistance needs, are discussed, ETA hosts quarterly “Town Hall” web trainings to provide general and targeted technical assistance to states. ETA also hosts a WRIS and WRIS 2 website, providing links to guidance documents, advisory group meeting minutes, status of state participation and state contacts. In addition, ETA provides technical assistance by request to states and the interested entities.

WEBINARS ON REPORTING REQUIREMENTS

Mr. Fleischmann: In March, the Department of Labor conducted webinars to help unions understand better how to complete their reporting requirements under the Labor-Management Reporting and Disclosure Act. Yet, the Department of Labor has conducted no such webinars to help employers and small businesses better understand their obligations under the various laws with which they have to comply such as the Fair Labor Standards Act overtime requirements. In fact, the budget submission requests more than \$41 million more for enforcement activities.

Question: Can you explain why the Department has prioritized assisting unions with their reporting requirements over employers and small businesses?

Mr. Perez: As noted in the response to a similar question asked by Mr. Kingston, the Department believes that education and outreach to promote voluntary compliance have always been key to achieving our mission of protecting the nation’s workers, and we have undertaken significant efforts since FY 2009 to assist employers and small businesses with their reporting and other compliance obligations.

Questions from Representative Honda

RAISING THE MINIMUM WAGE

Mr. Honda: What steps need to be taken next to help realize a living wage for all workers?

Mr. Perez: The President is committed to doing whatever he can to raise working Americans' wages. He is encouraging business leaders to raise the wages of their employees, and calling on state and local elected officials to work to raise the wages of workers in their jurisdictions. Raising the federal minimum wage to \$10.10 would lift wages for about 28 million Americans and help millions more work their way out of poverty -- without requiring a single dollar in new taxes or spending.

DATA DISAGGREGATION

Mr. Honda: Minority communities often face different economic challenges, and AAPIs in particular suffer longer in long-term unemployment than other communities. We have trouble identifying why this is and who these people are because we are not taking a clear picture. As the Bureau of Labor statistics reports unemployment data it's important for this data to be disaggregated so that we have an understanding of where our workforce needs are.

Please keep us updated on what steps the Department is taking to realize better data collection, and help us identify challenges.

Mr. Perez: Although it can be very difficult to create estimates for detailed subpopulations from Federal surveys due to small sample sizes, the Bureau of Labor Statistics (BLS) has taken active steps over the past few years to increase the availability of disaggregated Asian American and Pacific Islander (AAPI) data. In 2011, BLS published disaggregated AAPI estimates from the Current Population Survey (CPS), the monthly household survey that is the source of the national unemployment rate. In order to publish reliable estimates for seven Asian groups—Asian Indian, Chinese, Filipino, Japanese, Korean, Vietnamese, or Other Asian—data were pooled together over a series of months or years. These estimates provided information not previously available for these groups on various labor force characteristics, including labor force participation, long-term unemployment, and reasons for unemployment. Also in 2011, the Department published a detailed analysis of the Asian American labor force in the recovery and used disaggregated AAPI data from the BLS in the report. In 2013, the BLS added a disaggregated Asian variable to the CPS public use microdata files; this allows researchers to conduct their own analyses of Asian groups.

Going forward, the BLS plans to start publishing disaggregated Asian data in its annual report on labor force characteristics by race and ethnicity and also is

planning to add a disaggregated Asian variable to the American Time Use Survey public use files. DOL is an active participant in the White House Initiative for Asian Americans and Pacific Islanders Interagency Working Group. The BLS serves on the group's data and research sub-committee, which is working to provide guidance to other agencies who would like to disaggregate AAPI data but lack the necessary technical expertise. In 2014, DOL is planning to update its report on the Asian American labor force using disaggregated data from the BLS.

WORKER MISCLASSIFICATION

Mr. Honda: Millions of workers are misclassified as “independent contractors” by their employer, which makes it easier to underpay employees, shift the normal tax burden from employer to employee, and deny them benefits.

What is the Department is doing on the regulatory end to crack down on this behavior?

Mr. Perez: The misclassification of employees as independent contractors is an alarming trend, particularly in industries that often employ low-wage, at-risk workers and in which Wage and Hour Division has historically found significant wage violations. The Department's Misclassification Initiative is making great strides in combating this issue and restoring these rights to those denied them.

The Department has partnered with the Internal Revenue Service (IRS) to combat worker misclassification. In September 2011, the Department signed a Memorandum of Understanding (MOU) with the IRS. Under this agreement, the agencies work together and share information, as appropriate, to reduce the incidence of misclassification of employees, to help reduce the tax gap, and to improve compliance with federal labor laws. Additionally, labor commissioners and other agency leaders representing 15 state governments have signed MOUs with WHD. These MOUs enable the Department to share information and to coordinate enforcement efforts with participating states in order to level the playing field for law-abiding employers and to ensure that employees receive the protections to which they are entitled under federal and state law. Participating states include California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Montana, New York, Utah and Washington. The Department continues to pursue similar partnerships with additional states as well.

These collaborations are making a difference. Since September 2011, when the Wage and Hour Division began entering into MOUs with states and announced a similar partnership with the IRS, the Wage and Hour Division has secured over \$18.2 million in back wages for more than 19,000 workers where the primary reason for minimum wage or overtime violations under the Fair Labor Standards Act was that workers were not treated or classified as employees. This represents a 97 percent increase in back wages in the two years following the

implementation of these agreements as compared to the two years prior to entering into these agreements.

REINSTATING THE ABILITY TO BENEFIT (ATB) TEST

Mr. Honda: Do you support reinstating the Ability to Benefit Test (ATB) for adult non-high school graduates or those without GEDs to qualify for Pell Grants and have greater access to job training programs? If not, please explain what other paths to workforce opportunities do you see for these populations.

Mr. Perez: The 2015 Budget proposes to reinstate the Ability to Benefit provision for students enrolled in eligible career pathways programs. We believe that reinstating ATB for Pell-eligible students enrolled in proven and innovative career pathways training programs would allow more low-skilled adults without a high school diploma to gain the knowledge and skills they need to secure a good job and advance their career prospects.

Individuals who have not completed high school or acquired a high school equivalency (HSE) credential are some of the individuals who certainly face the greatest need for assistance in accessing job training opportunities. Several of the Department's employment and training programs, including Workforce Investment Act Youth, Job Corps, and YouthBuild programs, can help these individuals to obtain a HSE credential.

WORKFORCE DEVELOPMENT BOARDS

Mr. Honda: Local Workforce Boards, comprised of a majority of business leaders, is a strong and successful component of effective workforce programs. What is your perspective on local Workforce Boards having a majority of private sector participation and further, their role in leading the success of the overall workforce system?

Mr. Perez: The Department agrees with the design of the workforce system that includes business-majority led Workforce Investment Boards. This model provides a strong business-led voice in local, regional and state-wide workforce development and ensures that the nation's investment in employment services and job-driven training meet current and future business needs.

TUESDAY, APRIL 8, 2014.

U.S. DEPARTMENT OF EDUCATION

WITNESS

HON. ARNE DUNCAN, SECRETARY OF EDUCATION, U.S. DEPARTMENT OF EDUCATION

CHAIRMAN'S OPENING STATEMENT

Mr. KINGSTON. The committee will come to order. And we have today, the Department of Education; the Honorable Arne Duncan will be our witness. And we look forward to hearing from you and Thomas Skelly. And I do not have any opening remarks.

I will say this, when the ranking member comes here, she is expected to bring desserts or however they celebrate in Connecticut. And I am just going to go ahead and put on the record she will be buying beer for all.

Maybe Ms. Lowey is going to do that as well. Ms. Lowey.

Mrs. LOWEY. Always.

Mr. KINGSTON. We just passed by unanimous consent that since Ms. DeLauro is late, probably celebrating UCONN's victory, that she will be buying beer for everybody tonight. I think that is a good motion, if you want to second it.

Mrs. LOWEY. No problem. I must admit I have a son who is a Dukie. So once they lost to Mercer and I figured out where the heck Mercer is, I kind of checked out.

Mr. KINGSTON. A typical basketball fan. Taking it well.

I guess you would know a thing about that, wouldn't you?

Secretary DUNCAN. Not much.

Mr. KINGSTON. Secretary.

Secretary DUNCAN. Thank you so much.

Mr. KINGSTON. Secretary, we go strictly on a 5-minute clock, and so we do interrupt anybody. But we try to have lots of rounds. And we have a number of our members who are going to be leaving at 11:00, but we will continue.

Ms. Lowey, do you have an opening statement?

Mrs. LOWEY. Why don't we go right ahead.

Mr. KINGSTON. Okay.

Mrs. LOWEY. Did you do an opening statement, sir?

Mr. KINGSTON. No. But we can come back.

I am good either way.

Mrs. LOWEY. Well, maybe I will do a little bit. Can't resist the opportunity.

Mr. KINGSTON. The passion of your side can't be resisted.

Mrs. LOWEY. You're not kidding. Because I look forward to this hearing knowing the importance of the work that you do. And so I will be brief, though.

First of all, I would like to thank you, Chairman Kingston, Ranking Member DeLauro.

I am just biding time, Rosa, while you are coming in. Chairman Rogers, who is not here yet.

CRITICAL EDUCATION INVESTMENTS

Secretary Duncan, this is a critically important hearing. If we want to remain a global economic leader, we need to increase investments in initiatives that will grow the economy and create jobs. And at the top of this list is education. Not a week goes by that I don't hear from schools in my district about the need for additional resources. That is why I believe that it is vital that as the subcommittee writes the 2015 bill, we prioritize restoring Title I and IDEA to pre-sequester levels. I also wholeheartedly agree with the Secretary's focus on early childhood education, which is one of the smartest investments we can make.

That said, I do have some concerns with the requests, including the proposed 15-percent reduction to teacher quality State grants, and 5 percent cut to the Impact Aid program. And I look forward to today's discussion on a range of topics, including after-school programs, Promise Neighborhoods, STEM education, Pell Grants, and other higher education initiatives.

Thank you, Mr. Chairman.

Mr. KINGSTON. Thank you, Ms. Lowey.

UNIVERSITY OF CONNECTICUT BASKETBALL TEAM

And, Ms. DeLauro, we went ahead and passed over you because if you don't have some kind of a like, I don't know, Italian pastry to celebrate UCONN, then we can't yield you any time. We figured you—we figured we would give you an additional minute so you can brag about UCONN, and then I know you have a busy day today. I saw you on "Morning Joe." You did an excellent job.

Ms. DELAURO. Thank you. Thank you.

Mr. KINGSTON. So if you are ready, I yield to you for your opening statement.

Ms. DELAURO. Thanks so much, Mr. Chairman. And all I can say is "go Huskies." Whoa. Great game last night. And tonight will be even greater, with the women winning the championship. So here we are. Thank you so much. And I appreciate the accommodation. And I know that I have to leave a bit early. I let the Secretary know that as well. So my apologies to you and to my colleagues as well.

Mr. Secretary, thanks so much for joining us today for your tireless advocacy on behalf of our students. As we think through the President's budget proposal for 2015, I think it is critical to remember the context in which it comes to us. Under the 2014 legislation just enacted in January, appropriations for the Department of Education remain \$800 million less than the comparable level 2 years earlier. This is a cut in actual dollar terms, without taking in to account rising costs, growing population and student enrollment or unusually high levels of need. It is not bad enough—if that isn't bad enough, had the majority had their way, the current underfunding of education programs would be even more severe.

Last year, the spending allocation that the majority gave to the subcommittee represented a cut of nearly 20 percent below the pre-sequester funding levels for Labor, HHS, and Education programs. In the distribution of funds for fiscal year 2014, the House majority gave the subcommittee the biggest cut of any, the equivalent of four times the reduction caused by sequestration. And the budget put forward by Chairman Ryan that the House is considering this week threatens to do even more damage.

On deck for next year would be a \$1.3 billion cut to Title I, a billion dollar cut to IDEA, \$761 million from Head Start, and cuts to Pell Grants by over \$125 billion over the next decade, making it harder for low-income students to go to college. And it cuts non-defense discretionary spending by another \$791 billion over the next 10 years. It is another sequester on steroids.

Meanwhile, many of the fundamental grant programs that are at the core of the Department's mission are stuck below 2010 levels. Especially after considering rising student enrollment, growing pressure to improve student achievement, even providing level funding to these programs serves as an effective cut in services. The failure to adequately invest at the Federal level comes at a time when States are still lagging behind pre-recession education spending. More than two-thirds of our States are providing a lower per-student funding level in 2014 than in 2008.

In Kansas, take one example, the Governor has proposed to deepen reductions in education funding so far that it would leave per-pupil spending 17 percent below pre-recession levels.

I might add that we are also in the early stages of implementing the Common Core, an effort that I believe is a valuable step forward, but one that requires adequate support for our teachers and our schools as it gets rolled out.

MIDDLE CLASS, SOCIAL MOBILITY AND EDUCATION

The state of affairs is misguided and inexcusable. Without broad access to a good education, there is no middle class, there is no social mobility. Insufficient funding breaks the compact that allows hard work to pay off and future generations to do better. That is the deal in America. Makes no sense to roll back our critical investments in education, especially when we are trying to produce workers with skills to master new technologies and adapt to the complexities of a global economy. We want to create jobs, grow the economy, and reduce the deficit in the long term. We have to support education and work to ensure educational opportunity for all.

PRESCHOOL EDUCATION

With that in mind, I am glad to see the Administration is increasing the Education Department's budget by 1.9 percent; and in particular, as does my colleague, Mrs. Lowey, I welcome the attention given to preschool education and to a new effort addressing the need to build noncognitive skills for today's students.

PROMISE NEIGHBORHOODS

Under the budget, Promise Neighborhoods would increase by more than \$40 million, a much needed infusion of funds for a

groundbreaking program that had been unable to support any new grants for the past 2 years due to insufficient funds.

COMPETITIVE VERSUS FORMULA GRANTS

That said, you and I know that I continue to disagree with the approach of prioritizing competitive grants in this budget at the expense of formula funding. Under this fiscal year 2015 request, formula grants would decline by \$1.9 billion or 4.9 percent, while competitive grants would increase by \$2.8 or 69 percent.

GAINFUL EMPLOYMENT RULE

On post-secondary education, I am glad to see the President is continuing his effort to increase college access and affordability in this budget, and that the Department has released a new gainful employment rule. I would have supported a stronger rule, but this is a step in the right direction that will hold for-profit colleges accountable for results.

Last year, students at for-profit schools received \$6.8 billion in Pell Grants. Unfortunately, many of them used up their Pell eligibility and got very little to show for it. In fact, 87 percent of Pell Grant recipients also had to take out student loans. The student loan default rate of 4-year students at for-profit schools is more than double the default rate at public and nonprofit schools. These students deserve better. They deserve the education that these schools promise, so I hope that this rule will lead to positive changes.

I thank the chairman for allowing me all of this time. There is a lot to discuss. And thank you for coming today, Mr. Secretary. We look forward for hearing your testimony.

Thank you, Mr. Chairman.

Mr. KINGSTON. Thank you.

Mr. Secretary.

OPENING STATEMENT OF SECRETARY DUNCAN

Secretary DUNCAN. Thank you so much. And let me first begin with thanking all of you for your work on the 2014 appropriation, which increased our investment in education over the previous year.

DISCRETIONARY FUNDING FOR EDUCATION

However, discretionary funding for education, excluding Pell Grants, remains below its 2010 level. And let me explain why I am so concerned about that. The fact is, we are falling behind our international competitors educationally. We should recognize that as an urgent wake-up call. But too often I feel we are sleeping through that alarm. In the United States, we are still just talking about the steps that so many leading, so many high-performing countries are actually taking to prepare their students for success in a competitive global economy. Falling behind educationally now will hurt our country economically for years to come.

DROP OUT RATE DECREASE, COLLEGE ENROLLMENT INCREASE

It is not that America isn't making progress. In fact, we are thrilled that a couple months ago we were able to announce the highest high school graduation rates in our Nation's history. That is a huge tribute to the hard work and commitment of teachers and students and families across the country. Dropout rates are down significantly and college-going rates are up, with African-American and Latino students leading those improvements.

OPPORTUNITY GAPS NEED CLOSING

And while we celebrate these very real achievements, we must also be impatient with the pace of change. Simply put, despite the gains we have made as a country, too many of our students today are not receiving the education they deserve, and it is our collective duty to challenge that status quo.

New civil rights data shows that the educational experience for too many students of color, students with disabilities, and English language learners falls short of meeting the American promise, the American ideal that if you work hard and study hard, you will have a fair shot to succeed.

We need the courage and the will to strengthen the opportunity structure for our children for the good of their families and the good of our country. And if we don't increase investment in education, let's be clear about exactly who we are leaving out of the American dream. While we know we have much more work to do, many States are bringing forward innovative ideas to improve education in profound ways.

SUCCESS OF OHIO-APPALACHIAN COLLABORATIVE

Just one quick example. The Ohio-Appalachian Collaborative, under plans developed under the Race to the Top and the Teacher Incentive Fund programs, set out to redesign education in rural communities and strengthen community partnerships. That Collaborative now involves 26 rural districts. And just 3 years into that collaboration, graduation rates for economically disadvantaged students in the original partnered districts actually exceed Ohio's State-wide average, and the number of high school students dual enrolled in courses that provide college credit has increased in 3 years by 186 percent. Same families, same communities, same schools, same very real socioeconomic challenges, but a very different set of opportunities, different expectations, and very different results.

GREATER SPEED AND CHANGE NEEDED TO CLOSE GAPS NOW

Ideas and innovations like those are so critically important. But as I said earlier, as a country, we simply aren't improving fast enough. Our collective lack of commitment to closing opportunity gaps relative to other nations sadly starts with our youngest learners. We rank in the bottom third of OECD nations in terms of providing access to high-quality preschool. We should all be ashamed of that brutal reality.

As a direct result, far too many of America's children start kindergarten at 5 years old already a year to 14 months behind, and

far too many of them never catch up. That simply is not in our Nation's best interests.

Data from our Civil Rights Data Collection project shows that our neediest students get the least experienced teachers. And the fewer minority students that you teach, the more you get paid. That is simply not a winning strategy for helping all of our children succeed.

In this country, only about 20 percent of students have access to high-speed Internet in school, a basic learning tool today. In high-performing nations, 100 percent of students, teachers, and schools have access to high-speed broadband.

Finally, when looking at college completion rates, the U.S. has fallen behind as our cost of college has increased. We used to be number one, one generation ago, first in the world in college attainment in young adults, and today we have dropped to 12th. Again, that is not a badge of honor.

We need to get serious about providing real opportunities to all, all of our children, from cradle through to career, by making preschool available, by providing good technology, tools and support to students and teachers, and by making college more affordable. We need to get in the game right now.

Unfortunately, I feel we are too often on the sidelines just talking. Let's stop talking and let's get down to the serious work so that no matter where in America children grow up, whether it is in Connecticut or Georgia or Ohio, they will have the educational opportunities they need to fulfill their true academic and social potential. We must stop letting so much human talent and capacity go to waste. Our Nation simply can't afford it.

Mr. KINGSTON. Thank you, Mr. Secretary.

[The prepared statement of Secretary Duncan follows:]

DEPARTMENT OF EDUCATION

**Statement by
Arne Duncan
Secretary of Education
on the**

U.S. Department of Education Fiscal Year 2015 Budget Request

Mr. Chairman and Members of the Subcommittee:

I want to begin by thanking Chairman Kingston, Ranking Member DeLauro, and other Members of this Subcommittee for your work on the 2014 appropriation for education. I appreciate the funding increases that you included in the fiscal year 2014 appropriation. However, it's important to recognize that total discretionary funding for the Department of Education, excluding Pell Grants, remains below the fiscal year 2010 level, and I worry about the long-term impact of the continuing slide in Federal education funding on the health of our economy and our democracy.

PRESIDENT OBAMA'S 2015 BUDGET REQUEST

Turning to 2015, the overall discretionary request for the Department of Education is \$68.6 billion, an increase of \$1.3 billion, or 1.9 percent, over the 2014 level. Within this total, we have six key priorities: (1) increasing equity and opportunity for all students; (2) strengthening support for teachers and school leaders; (3) expanding high-quality preschool programs; (4) improving school safety and climate; (5) promoting educational innovation and improvement; and (6) ensuring access to affordable and quality postsecondary education.

EQUITY AND OPPORTUNITY

We are requesting \$300 million for a new Race to the Top – Equity and Opportunity competition centered on improving the academic performance of students in our Nation's highest poverty schools. RTT—Opportunity grantees would support: (1) developing systems that integrate data on school-level finance, human resources, and academic achievement; (2) developing and retaining effective teachers and leaders in high-poverty schools; (3) increasing access to rigorous coursework; and (4) other evidence-based activities that mitigate the effects of concentrated poverty.

SUPPORT FOR TEACHERS AND SCHOOL LEADERS

A second priority in our 2015 request is to provide significant support for school teachers and leaders who are implementing new college- and career-ready (CCR) standards, turning around our lowest-performing schools, and using new evaluation systems to improve their practices. A key request in this area is \$200 million that would help educators transition to using technology and data to personalize learning and

improve instruction, in support of the FCC's ConnectED initiative to equip our Nation's schools and libraries with high-speed connectivity. The program would benefit educators and students by creating high-quality, open digital learning resources aligned to CCR standards; using digital tools to personalize learning and implement new assessments; analyzing real-time data to improve student outcomes; using technology to increase student engagement; and providing remote access to effective educators.

We are requesting \$2.3 billion for Excellent Instructional Teams, which would provide both formula grants and competitive awards to help States and LEAs increase the effectiveness of teachers and principals. This total includes \$2.0 billion for Effective Teachers and Leaders State Grants to provide flexible, formula-based support for States and LEAs; \$320 million for the Teacher and Leader Innovation Fund to reform school leader advancement and compensation systems; and \$35 million for a transformed School Leadership program to expand the Department's focus on current school leaders aimed at strengthening essential leadership skills.

EXPANDING HIGH-QUALITY PRESCHOOL

The third major priority in the 2015 request is to continue the President's commitment to expanding educational opportunity for millions of children through a \$75 billion mandatory Preschool for All program that would partner with States to support universal access to high-quality preschool for all 4-year-olds from low- and moderate-income families. Our preschool request also includes \$500 million to expand the Preschool Development Grants program that would help build State and local capacity to implement high-quality preschool programs.

In addition, we are requesting \$441.8 million for the Grants for Infants and Families program under the Individuals with Disabilities Education Act (IDEA), an increase of \$3.3 million to help States implement statewide systems of early intervention services for all eligible children with disabilities from birth through age 2 and their families.

AFFORDABILITY AND QUALITY IN POSTSECONDARY EDUCATION

Our 2015 request also includes key initiatives to improve affordability and quality in postsecondary education. For example, we are asking for \$7 billion in mandatory budget authority over 10 years for new College Opportunity and Graduation Bonus grants to reward colleges that successfully enroll and graduate a significant number of low- and moderate-income students on time. This initiative would support innovations to further increase college access and success by providing funding to eligible institutions based upon the number of Pell students they graduate on time. The Satisfactory Academic Progress initiative would make changes to the Pell Grant eligibility provisions by strengthening academic progress requirements to encourage students to complete on time. The Budget would also provide Pell Grant eligibility to students who are co-enrolled in adult and postsecondary education as part of a career pathway program to

allow adults without a high school diploma to gain the knowledge and skills they need to secure a good job.

Second, we would use \$4 billion in mandatory funding to create a State Higher Education Performance Fund that would make 4-year competitive grants to States to support the successful implementation of performance-based policy and funding reforms that encourage and reward college affordability and ensure that students attend and complete postsecondary education.

Third, our 2015 request proposes \$100 million to expand support for the First in the World fund to make competitive awards to support improving educational outcomes, including on time completion rates, and making college more affordable for students and families, particularly for low-income students. The request also asks for \$75 million for College Success Grants for Minority-Serving Institutions, which would make competitive awards to minority-serving institutions designated under Title III and Title V of the Higher Education Act.

Lastly, we are continuing our efforts to help student borrowers with existing debt to manage their obligations through income-driven repayment plans. Our 2015 request proposes to extend Pay As You Earn, which caps student loan payments at 10 percent of discretionary income, to all student borrowers.

EDUCATIONAL INNOVATION AND IMPROVEMENT

We continue to support innovation and improvement in elementary and secondary education, beginning with \$165 million for Investing in Innovation (i3), an increase of \$23.4 million, to maintain strong support for using an evidence-based approach to scale up the most effective approaches in high-need areas. The i3 request would provide up to \$49.5 million for the Advanced Research Projects Agency for Education, an initiative that would pursue technological breakthroughs with the potential to improve the effectiveness and productivity of teaching and learning.

Second, we are requesting \$150 million for a new High School Redesign program to support the transformation of the high school experience by funding competitive grants to school districts and their partners to redesign high schools to help ensure all students graduate from high school with college credit and career-related experiences or competencies.

Third, our 2015 request seeks \$170 million in new funding for a comprehensive STEM Innovation proposal to transform STEM education. This total includes \$110 million for STEM Innovation Networks to provide competitive awards to LEAs in partnership with institutions of higher education, other public agencies, and businesses to help increase the number of students who are effectively prepared for postsecondary education and careers in STEM fields. We also are asking for \$40 million to support STEM Teacher Pathways that would make competitive grants for recruiting recent college graduates and mid-career professionals in the STEM fields in high-need schools.

An additional \$20 million would support the activities of a National STEM Master Teacher Corps, which would identify models to help America's brightest math and science teachers make the transition from excellent teachers to school leaders and advocates for STEM education.

In addition, the Budget provides a \$100 million increase for Special Education State Grants. This increase would support Results Driven Accountability incentive grants to improve special education services for children with disabilities. States awarded these grants would identify and implement promising, evidence-based reforms while also building State and local capacity to improve long-term outcomes.

Our 2015 request also includes a request of \$1.1 billion for a reauthorized Carl D. Perkins Career and Technical Education program. The reauthorization proposal would build on the experience of the i3 program by creating a discretionary fund aimed at promoting innovation and reform in CTE and replicating the success of proven models.

IMPROVING SCHOOL SAFETY AND CLIMATE

The 2015 request would continue support for the Now is the Time school safety initiative by providing \$50 million for School Climate Transformation Grants to help create positive school climates that support effective education for all students; \$45 million for a Successful, Safe, and Healthy State and Local Grants program that would award grants to increase the capacity of States, districts, and schools to create safe, healthy, and drug-free environments; and \$25 million for Project Prevent grants to help LEAs break the cycle of violence through expanded access, school-based strategies that prevent future violence.

OPPORTUNITY, GROWTH, AND SECURITY INITIATIVE

The Administration's Budget also includes a separate \$56 billion Opportunity, Security, and Growth Initiative. Our Education Budget would use this initiative to include additional investments of \$250 million for Preschool Development Grants, \$300 million for the ConnectEDucators initiative, and \$200 million for Promise Neighborhoods. All of these funds are in addition to the discretionary requests under the caps.

CONCLUSION

In conclusion, our 2015 Budget reflects the President's determination to make the investments necessary to secure America's future prosperity. I look forward to working with the Subcommittee to secure support for the President's 2015 Budget for education.

Arne Duncan
U.S. Secretary of Education

Biography

Arne Duncan was nominated to be Secretary of Education by President-elect Barack Obama and was confirmed by the U.S. Senate on Inauguration Day, Jan. 20, 2009.

Prior to his appointment as secretary of education, Duncan served as the chief executive officer of the Chicago Public Schools, a position to which he was appointed by Mayor Richard M. Daley, from June 2001 through December 2008, becoming the longest-serving big-city education superintendent in the country.

Prior to joining the Chicago Public Schools, Duncan ran the non-profit education foundation Ariel Education Initiative (1992-1998), which helped fund a college education for a class of inner-city children under the I Have A Dream program. He was part of a team that later started a new public elementary school built around a financial literacy curriculum, the Ariel Community Academy, which today ranks among the top elementary schools in Chicago.

Duncan formerly served on the boards of the Ariel Education Initiative, Chicago Cares, the Children's Center, the Golden Apple Foundation, the Illinois Council Against Handgun Violence, Jobs for America's Graduates, Junior Achievement, the Dean's Advisory Board of the Kellogg School of Management, the National Association of Basketball Coaches' Foundation, Renaissance Schools Fund, Scholarship Chicago and the South Side YMCA. He also served on the Board of Overseers for Harvard College and the Visiting Committees for Harvard University's Graduate School of Education and the University of Chicago's School of Social Service Administration.

He has been honored by the Civic Federation of Chicago and the Anti-Defamation League. In 2007, he received the Niagara Foundation's Education Award, the National Foundation for Teaching Entrepreneurship Enterprising Educator Award and the University High School Distinguished Alumni Award. He also received honorary degrees from the Illinois Institute of Technology, Lake Forest College and National-Lewis University. In 2006, the City Club of Chicago named him Citizen of the Year. He was a member of the Aspen Institute's Henry Crown Fellowship Program, class of 2002, and a fellow in the Leadership Greater Chicago's class of 1995.

From 1987 to 1991, Duncan played professional basketball in Australia, where he also worked with children who were wards of the state.

Duncan graduated magna cum laude from Harvard University in 1987, majoring in sociology. He was co-captain of Harvard's basketball team and was named a first team Academic All-American. He credits basketball with his team-oriented and highly disciplined work ethic.

Duncan is married to Karen Duncan; they have two school-aged children, a daughter, Clare, and a son, Ryan.

PELL GRANT ABILITY-TO-BENEFIT PROVISION

Mr. KINGSTON. And I think because of the time, I will go ahead and yield to Ms. DeLauro my 5 minutes. Are both of you all leaving? We could ask unanimous consent to just let the minority side go twice in a row, if everybody is good with that?

Ms. ROYBAL-ALLARD. Thank you very much, and thank you for yielding to me.

Secretary Duncan, I am pleased that the fiscal year 2015 budget request would reinstate Pell Grant and other financial aid eligibility for some students who have not earned a high school diploma or a GED, but have proven that they have the ability to benefit from higher education. As you know, many colleges have developed innovative programs and pathways to address the unique needs of Ability-to-Benefit, or ATB students, allowing them to co-enroll in developmental skills courses and job training programs.

However, the current policy of exclusion has prevented thousands of these students from pursuing their educational goals and gaining the skills they require for the 21st Century economy. How many ATB students would benefit from reinstating financial aid eligibility? How much would this policy change cost? And what do you see as the economic and societal benefits of reinstating financial aid for these students?

Secretary DUNCAN. So, obviously, so many young people who maybe have historically struggled, didn't make it through high school, are trying to get back on their feet, trying to get into the world of work, need to go back to school. And so what our proposal would do is give young people who have passed a couple college-level classes the option to again have access to Pell Grants, to retain green energy jobs, IT jobs, health care jobs, advanced manufacturing jobs, and rather than being sort of a drain on society, start to be able to support their families and contribute.

Tom, do you want to walk through specifically the numbers of who could benefit and the dollar amount?

Mr. SKELLY. The Change would add about 2,000 in Pell recipients, cost about \$6 million in 2015 and \$68 million over 10 years.

Ms. ROYBAL-ALLARD. Okay. And certainly that would be a huge benefit, not only to these families but to our economy to have individuals who would be well-trained and be able to not only support their family, but also contribute and strengthen our economy. So I was pleased about that.

FULL FUNDING OF SPECIAL EDUCATION STATE GRANTS

Secretary Duncan, despite a Federal commitment to fund 40 percent of special education costs, the current Federal share of IDEA funding is less than 16 percent. In Los Angeles Unified School District, the Federal share is only 15 percent, or \$194 million shortfall that LAUSD must subsidize by shifting money from other critical programs.

RESULTS DRIVEN ACCOUNTABILITY INCENTIVE GRANTS

I am concerned that your budget freezes funding for IDEA State grants while proposing funding for a new \$100 million competitive grant to States under IDEA. Shouldn't our first priority be to help

school districts meet their current obligation under IDEA before we fund new proposals? And, if so, why does your budget propose freezing funding for IDEA State grants?

Secretary DUNCAN. First, and obviously, in tough economic times we are pleased to be able to try and maintain that commitment. I more than recognize the challenges at the local level. When I led the Chicago Public Schools, the Federal part that wasn't funded was about \$770 million each year, and we had to close that hole.

Again, if Congress as a whole wants to sort of take this on, we are happy to have that conversation. I haven't seen that level of seriousness, quite frankly, to really invest here. But we think it is so important that we not just invest in the status quo, but in a different vision of where we can go. It is interesting to me, once students go into special ed, they almost never come out. Once they get that label, there are never good paths out.

And what Michael Yudin on our staff is doing, I think is really a desperately needed step in the right direction in terms of innovation, and that is moving towards more of a result-driven system, rather than compliance. And this can occur when folks—States and districts—help more young people move out of special ed, when they can increase graduation rates, when they can increase college-going rates. We want to start to have that conversation. We want to put some money out there for districts willing to challenge the status quo and hold themselves accountable for getting better results for students with special needs, we want to do everything we can to support that creativity.

Ms. ROYBAL-ALLARD. I would agree that innovation is important. But the concern is that it is at the expense of current obligations; we are not even meeting our current obligations. And I think that is the concern that I and others have.

Secretary DUNCAN. I recognize that concern. Again, the over \$11 billion we are putting into IDEA is nowhere near enough. I absolutely agree with that. But to spread \$100 million across 15,000 school districts, you get very little, minimal impact. But to put \$100 million into some targeted places where people can create models for the rest of the country, we think that is a way to start to change the culture and the conversation here.

Ms. ROYBAL-ALLARD. Thank you.

Mr. KINGSTON. Ms. DeLauro.

ABILITY-TO-BENEFIT PROVISION

Ms. DELAURO. Thank you, Mr. Chairman. First let me associate myself with my colleague, Congresswoman Roybal-Allard's comments on the Ability-to-Benefit provision. I think it is important that we get back and try to turn that around.

FIE NON-COGNITIVE SKILLS INITIATIVE

Let me address, if I can—I will try to move quickly—two areas. One in four children in the U.S. grows up in poverty today. You have got research that shows that the extreme stress of childhood poverty has a dramatic effect on a child's developing brain, actually exerting a direct impact on the development of the brain centers involved in learning.

Your proposed \$10 million for a new non-cognitive skills initiative would put researchers and practitioners into partnership so they can study how our professionals in our schools can build an environment that promotes the approach to student growth, social behavior, emotional well-being.

Can you talk a little about this investment and how it can mitigate the effects of growing up in poverty for our kids?

SEVEN-TO-ONE RETURN ON INVESTMENT

Secretary DUNCAN. Happy to do that and just appreciate so much your interest here. And as I study the tremendous impacts of high-quality early childhood education, which you and I and so many others firmly believe in, folks who have done decades-long longitudinal analysis, folks who are much smarter than me, people like Dr. James Heckman, who is a Nobel Prize winning economist at the University of Chicago and talks about a seven-to-one return on investment. For every dollar we invest in early childhood education, we as a country get back \$7.00—and we have less crime, fewer dropouts, less teenage pregnancy, more high school graduates, more people going to college, more people going to the world of work. His most recent data talks about the long-term health benefits that reduce health care costs.

So the dividends here are extraordinary. And I wonder, collectively, of all the public, of all the tax dollars we invest, how many times are we getting back \$7.00 for every time we invest \$1.00? I don't think that happens too often in government.

BENEFITS OF NON-COGNITIVE SKILLS

But when I talked to him about what are the real drivers of that ROI, that return on investment, not surprisingly, a significant amount comes from the academic benefits. Children from early learning programs who enter kindergarten are not a year to a year and a half year behind; their literacy and their math skills are intact. But he talks passionately about what we have called—we need to come up with a better name—the non-cognitive side, the grit, the resilience, the perseverance, the ability to interact in a room like this and talk socially and have give and take and take turns.

And if young people don't learn those skills at home, and not every child has that opportunity to learn at the dining room table, it puts a huge limit on what they can accomplish. So this non-cognitive emerging research we think is hugely important.

We want to invest—when I spent years working in the inner city in the south side of Chicago, we spent a huge amount of time trying to help instill these skills in our students we worked with. I honestly have no sense of whether we were impactful, whether we were effective or not. But if we can give students the ability to persevere through sometimes horrendous situations at home and in the community and overcome that adversity, then a world of opportunity opens up to them. So we are thrilled to try and get in this game as a Nation. We are in our infancy, but I think this is a very, very important body of work.

PRESCHOOL INITIATIVE

Ms. DELAURO. Thank you. I would just quickly ask on preschool—and we know the value of the high-quality pre-K programs—just ask for a bit of detail on what this might include and what you are going to embark on. Services comparable to those Head Start provides—critical physical, mental health services, nutrition, wellness, immunization, dental, vision, those kinds of efforts?

Secretary DUNCAN. This is a birth-through-5 agenda. So we want a seamless continuum. Kathleen Sebelius and I have been joined at the hip on this one. Historically, our departments were dysfunctional, didn't talk. Those days are long gone. So whether it is early home visiting, whether it is early Head Start, Head Start, pre-K, we just want to get our babies off to a good start.

What is interesting to me, which I love, is this has become a total bipartisan issue in the real world. In fact, we now have more Republican governors than Democratic investing scarce taxpayer dollars in early learning because they understand ROI. On the challenges—State after State where I visit, there are huge waiting lists, huge waiting lists for preschool. So for thousands and thousands of families, where parents want the best for their children, who want that opportunity, it simply is not provided.

So this wouldn't be any mandate, wouldn't be anything like that. We would simply partner with States to leverage their dollars and where they want to increase access for children starting in the most disadvantaged communities, they could partner with us. We would have a mixed delivery system. This could be school districts, this could be non-profits, this could be faith-based, it could be for-profit, it could be Boys and Girls Clubs, YMCAs. We just want more children in this country to have access.

INTERNATIONAL RANKING FOR PRESCHOOL EDUCATION

The final thing I will say is that, again, internationally this is, frankly, an embarrassment. I just left an international conference. The fact is we are somewhere about 25th, 26th, 28th amongst industrial countries. People from other countries come up to me and just simply ask, why don't your citizens care about your babies? And I don't have a good answer for them.

Ms. DELAURO. I am hopeful that what will be able to happen is that we can encourage States to ensure that our most at-risk kids, and their parents, are given the opportunity to attend these programs, and that we will be going out into the community and finding the families that don't know that they are eligible for these efforts. Thank you very, very much, Mr. Secretary. And I apologize for departing. Thank you.

Secretary DUNCAN. Congratulations on the work on the other issue.

Ms. DELAURO. Thank you very much. Thank you, Mr. Chairman, and my colleagues.

Mr. KINGSTON. Thank you. Ms. Roby.

Mrs. ROBY. Thank you. And thank you for being here today, Mr. Secretary.

CAREER AND TECHNICAL EDUCATION INNOVATION FUND

The Department of Education's budget request claims to emphasize equipping Americans with the skills they need to fill the jobs of the 21st century economy. However, the proposed budget doesn't prioritize resources for career technical education, CTE, State grants provided through the Carl D. Perkins Career and Technical Education Act. And, as you know, the CTE State Grants are the backbone of the Federal funding for CTE.

In fact, the Department's budget request actually proposes a number of new competitive grant programs, which has already been mentioned. Specifically, the budget proposes to set aside the \$100 million from CTE State Grants for a new competitive CTE innovation fund.

So I have a three-part question here. First, will you please address why the Department is prioritizing spending resources on untested and often duplicative education initiatives when we have yet to fulfill our commitment to existing formula-driven programs?

Second, why does the Administration continue to propose competitive grants that only benefit a few students rather than investing in proven programs like CTE that help to further the goal of career readiness for all students?

And, third, how can schools continue to offer rigorous and relevant career training and education to all students without a strong Federal investment in CTE?

RATIO OF FORMULA VERSUS COMPETITIVE GRANT PROGRAMS

Secretary DUNCAN. Really appreciate the question. And we think the work in that CTE space—Voc Ed was the former name for it—is hugely, hugely important. So a couple things, just to be clear on the budget. Roughly 89 percent of our budget goes to formula programs; a small minority, about 11 percent, goes to competitive grants. So anyone who thinks those balances—people sometimes think it is, like, 50/50—it is not even close. It is 89 to 11.

NEED FOR UPDATED, INNOVATIVE CTE PROGRAMS

So we want to continue to invest in the base programs, which we will always do. But we really want to make sure that programs are preparing students for the jobs of tomorrow, not of yesterday. Quite honestly, in CTE programs, many are extraordinarily strong, but some are, frankly, still preparing students for jobs that are obsolete.

And so we just want to make sure that, again, scarce taxpayer dollars are being used to prepare students for the jobs going forward. And I have been to dozens and dozens of amazing high schools that are providing real training leading to real jobs. There is often this false debate: college versus career. I think that is the wrong debate. We have so many wrong debates in education. We ought to be preparing students for college and career. And guess what? Those skills are about the same.

Recently, I was at an amazing, amazing school, Worcester High School in Massachusetts, that a few years ago was literally failing. It had a new principal, new set of CTE programs. They have a credit union in the school, auto body works, health care. People

from the community who are going through chemotherapy due to cancer can come in and get wigs. They had a veterinary clinic, a fully functioning veterinary clinic in the school. And these kids are going on to these career opportunities. 87 percent are going on to college; 13 percent go right into the world of work. But that school was becoming the community center. Whatever you need in the community, you come to the high school. It was an amazing connection there. So we want to continue to invest.

We have a blueprint for reauthorizing Perkins, as you know. Would love your feedback on that. But we want to make sure that we are investing in the jobs of the future, not in the jobs of yesterday.

Mrs. ROBY. I mean, you made my case, the reason that this is so important. We have strong examples of career technical education in Alabama's Second District, where it is providing opportunities for high school students to be career ready, alongside partnering with the 2-year college and the private sector, which is such an important partnership for career technical education, and one that we are trying to encourage at the State and local level, for more businesses to be willing to invest their time and energy into making sure that these children have opportunities.

NATIONAL ASSESSMENT OF CTE

Last November, I was a member of the Education and Workforce Committee. And the Assistant Secretary for Career, Technical, and Adult Education, Dr. Brenda—

Secretary DUNCAN. Dann-Messier.

Mrs. ROBY [continuing]. Dann-Messier, indicated that the national assessment of CTE would be available by spring of this year 2014. I recognize that an interim report was submitted in 2013. Can you tell us when we can expect to have that final report?

Secretary DUNCAN. Let me check on that. I am not sure.

ADMINISTRATION-WIDE COMMITMENT TO CTE

Let me go back. I know that this hearing is obviously about my budget, but I want folks and you to understand this is an administration-wide commitment. So we are not just putting our education dollars into CTE. Literally yesterday, the President announced \$100 million around high school redesign, which is exactly trying to do more CTE. And through the Department of Labor, we have invested \$2 billion—\$500 million a year over 4 years—not just into high schools, but into community colleges, where there are real linkages to the workforce. So it is a priority for us, but, again, we are not alone in this work. The Department of Labor has been a great, great partner. And the President is driving this everywhere he can. In fact, I think he announced he is going to do the high school commencement at the high school I just described.

So we want to do more, we will do more, but we are also partnering with other places to try and stretch all of our scarce resources.

Mrs. ROBY. Sure. If you could just get back to us on the final report as opposed to interim.

Secretary DUNCAN. Yes, ma'am. We owe you that one. I will come back to you.

[The information follows:]

NATIONAL ASSESSMENT OF CAREER AND TECHNICAL EDUCATION

The Department expects to release the final report of the National Assessment of Career and Technical Education (NACTE) in the summer of 2014.

PROMISE NEIGHBORHOOD PROGRAM

Mrs. ROBY. Thank you. I yield back.

Mr. KINGSTON. Ms. Lowey.

Mrs. LOWEY. Mr. Secretary, I know we have previously discussed this initiative, but I want to reiterate that I strongly support Promise Neighborhoods. It is vital to comprehensively serve an entire neighborhood and create a pipeline of programs for children that start even before they are born and takes them through college graduation. In essence, it wraps children and their families in coordinated education, health, and social supports, which in my opinion, is the only way to break the cycle of poverty in our most disadvantaged communities.

Back in the 1990s, I helped start the Full Service Community School Programs. And I see Promise Neighborhoods as a more comprehensive extension of that effort. This committee first appropriated funds for the Promise Neighborhoods program in fiscal year 2010 with \$10 million for planning grants. Since then, we have increased the funding enabling your Department to award a total of 46 planning grants and 12 implementation grants. But for the past 2 years, the appropriation has not been able to support any new grants and has only been able to cover continuation costs for the existing 12 implementation grants.

PROMISE NEIGHBORHOODS IMPLEMENTATION GRANT FUNDING

Doesn't this mean that there are dozens of communities ready to move forward with very promising plans? And I see that your budget proposes to boost funding for Promise Neighborhoods by \$43 million, which would allow for five new implementation grants.

Can you tell us something about some of the planning by grantees that are ready to proceed, share examples of the type of work that could be undertaken if we were able to provide them with implementation grants?

Secretary DUNCAN. So it is a great question. And this is obviously the tension we always hear, competitive versus formula. This is obviously competitive dollars. And there are, as you said, dozens and dozens of communities across the country who we every year have to say no to, who have done tremendous planning, who are working together in pretty profound ways. Obviously, Geoffrey Canada's work in New York has been so influential in our thinking.

As you know, I got my start in education working in my mother's after-school program. We worked extraordinarily hard. We weren't smart enough to think about involving the entire community and rallying everybody behind the efforts to create an opportunity structure from birth all the way through to career to give children a chance to be successful.

So I have—without going into too many details—I have been to rural communities and seen the extraordinary commitment to cre-

ating new opportunities for kids that haven't had them. Most recently, I was in East Hollywood, in L.A., and saw a center that actually we have funded. So they are implementing, so it is not just a vision. And it was absolutely remarkable to see. They had early childhood care going on. They had parents coming to school to get their GED. They had ESL classes, they had job-training programs, all happening at the same time at the same site. And it was transforming lives.

So that is the kind of thing we want to see happen more often. We want to take all of our scarce resources, collocate them, have them be seamless, and help children and families have a chance to be successful.

One young girl I talked to is looking to go into a career in criminal justice. She grew up as part of the foster care system, had bounded from home to home. Broke down in tears talking about some of that trauma. But somehow we talked about earlier grit and tenacity. Somehow she had the tenacity and the perseverance to work through that trauma. She is back in school—had dropped out—getting her GED. Wants to go on and work for the police there and be a force for good in the community. And that is the kind of story we need to see happen more often.

In scarce economic times, again, tough budget times, we are asking for a 76-percent increase in Promise Neighborhood funding. And we don't make that request lightly. That is a very, very serious request.

Mrs. LOWEY. Well, I thank you. And I guess I have time for half a question.

AFTER SCHOOL PROGRAMS

I just want to put in another good word for the after school programs. I have been a longtime advocate for quality after school programs. I truly believe they make a real difference to children in low-income working families who need a safe, enriching place to be when school is not in session. They receive targeted assistance with their schoolwork, the opportunity to pursue non-academic passions. I also know that finding ways to lengthen the school day a bit for all students has been a high priority of yours.

So we probably—we are on yellow. But if you could just tell us quickly why it is necessary to divert funding from after school and summer—well, the red light is on.

Mr. KINGSTON. You may take it for the record.

Mrs. LOWEY. If you can take it for the record, why you had to divert funding from after school and summer learning programs under 21st Century Community Learning Centers—CCLC—to use these funds as well for longer school days? So I would like to hear from you further about that at some time. Thank you.

21ST COMMUNITY LEARNING CENTERS FLEXIBILITY

You stated that you are concerned that allowing 21st Century Community Learning Centers (21st CCLC) program funds to be used for activities during the school day is diverting funds from after-school and summer learning programs. As you know, I have exercised the waiver authority under section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA) to provide flexibility to interested State educational agencies (SEAs) by offering waivers of specific requirements under the ESEA in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. This initiative is known as “ESEA flexibility” (see ESEA flexibility at <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>).

Research suggests that one key strategy to improve student achievement, particularly in low-performing schools, is to expand the school day, week, or year in order to provide additional time for high-quality teaching and learning. Therefore, within the context of ESEA flexibility, I offered SEAs the opportunity to request an optional waiver of the requirement that 21st CCLC program activities be carried out only during non-school hours or periods when school is not in session. The purpose of this waiver is to permit subgrantees to use 21st CCLC funds to support high-quality expanded learning time (ELT) to carry out authorized 21st CCLC activities. To date, 26 of the 44 jurisdictions that have received ESEA flexibility have opted for this waiver. Under the waiver, a 21st CCLC subgrantee may apply to use program funds to carry out authorized activities during the school day when the school day, week, or year has been expanded.

The U.S. Department of Education also recently issued nonregulatory guidance under the 21st CCLC program for States that have received ESEA flexibility waivers. The guidance is entitled “Frequently Asked Questions (FAQs): Expanded Learning Time (ELT) under the ESEA Flexibility Optional Waiver,” and can be found at <http://www2.ed.gov/programs/21stcclc/21stcclc-elt-faq.pdf>.

In issuing the nonregulatory guidance, the Department sought to clarify the limited scope of the optional 21st CCLC waiver under ESEA flexibility. I believe you will find that several questions in that document address your concerns. The guidance makes clear that the waiver allows an additional, but not exclusive, use of 21st CCLC funds for activities to support ELT; before-school and after-school programs, as well as weekend and summer programs, remain allowable uses of funds (FAQ 8). As indicated in the guidance (FAQs 5 and 6), the waiver affects only when 21st CCLC services may be provided—during, in addition to outside of, the school day; all other statutory requirements under the 21st CCLC program remain applicable (FAQs 5 and 6). Those requirements include ensuring that 21st CCLC funds supplement—not supplant—the use of other Federal or non-Federal funds to support ELT (FAQ 19). The guidance also provides suggestions regarding how subgrantees, specifically LEAs, can work with community-based organizations, faith-based organizations, and other eligible entities to enable those entities to carry out 21st CCLC activities during the expanded school day (FAQs 11 and 12).

Mr. KINGSTON. Thank you.

Mr. Fleischmann.

Mr. FLEISCHMANN. Thank you, Mr. Chairman.

Mr. Secretary, good morning sir.

PROPOSED COLLEGE RATINGS SYSTEM

Secretary DUNCAN. Good morning.

Mr. FLEISCHMANN. Great to see you today.

Secretary Duncan, the Administration has proposed a new college ranking system, a rating system. I can solve that real quick. The premier university system in this country is the great University of Tennessee system. And, but I do realize that there are other great universities and university systems around this country.

While I share your concerns about the rising costs of higher education, and the need to provide students and families with relevant and appropriate information so that we will be able to make informed decisions on which college or university will best meet their needs, I have serious reservations about this proposed rating system. Frankly, I am not convinced that this is the right thing for the Federal Government to be doing. There are plenty of other rankings and rating systems done by private organizations, and many of them suffer countless criticisms about the validity of their results.

PURPOSE OF PROPOSED COLLEGE RATINGS SYSTEM

Your budget includes \$10 million in HEA program evaluation funds to develop and refine this new college ratings system. I question whether this is the best use of taxpayer dollars and whether higher education resources could be better focused on Federal student aid or other established programs, sir.

My first question is, could you please tell us exactly what this funding would be used for?

Secretary DUNCAN. I would say that I think you have an extraordinary Governor in Tennessee whose thinking has actually been very influential on my thinking. The challenge, I think, we collectively face is at the Federal level, you and I and, again, most importantly taxpayers, spend close to \$150 billion each year in grants and loans. And virtually all of that, all of that is based upon inputs. Almost none of that is based upon outcomes. And what Governor Haslam and a few other creative governors have started to do is to try to have some resources at the State level start to be based upon performance. So we want to know not just are people going to college, but are they graduating. The goal is not to go, the goal is to get that diploma, to graduate at the back end.

Some universities do an extraordinary job of building college cultures around completion, others, frankly, don't. I will tell you very personally when I led the Chicago public schools, we saw huge disparities in our local university students with identical GPAs, identical test scores, some graduating, like, 80 percent, some graduating 20 percent. We started to steer young people towards certain places and away from others.

And I think it's important to have a greater sense of where outcomes are taken seriously, where they are building cultures around completion, where they are doing more to enroll students at risk.

And we recognize if we do this poorly, we could create the wrong incentive structure. But where folks are taking more first-generation college goers, more Pell Grant recipients, and being successful with them, ultimately, we think—we are a big believer in transparency—the public should have access to that data. Folks don't know those things now. And ultimately, just as some States like Tennessee are starting to move resources towards places that are getting good results and keeping down costs, we think that is a good model for us to look at as well.

Mr. FLEISCHMANN. All of these are very laudatory goals, and I appreciate you for articulating them, but it still goes back to why should the Federal Government be involved, sir, in trying to rank these institutions?

Secretary DUNCAN. Not—to be clear, not rank them, to rate them. And I think we have an obligation because annually we are spending nearly \$150 billion taxpayer money with zero sense of outcomes. And so I think we can do better for the American public, and I think we can do better for the hard-working taxpayers.

TIMELINE FOR RATING SYSTEM IMPLEMENTATION

Mr. FLEISCHMANN. With respect to developing this rating system, then, what is the timeline for its rollout?

Secretary DUNCAN. I can't yet give you a timeframe as we are still working through what it will look like. We have had countless listening sessions, gone out and travelled the country. Would be happy to meet with you and your staff and other folks. I am going to be very clear, I have said repeatedly we are going through this with a great sense of humility. We understand what can happen if we do this poorly—you talked about some of the private ranking systems that have huge disincentives for the kinds of behavior we are talking about, where a ranking goes up by not taking kids rather than by taking more students and being successful with them. And we want to be very, very thoughtful.

And so we are still thinking it through, still having a huge amount of public input. Would love to sit down with you and your staff if you have thoughts on how to do it. But at the end of the day, as difficult as it is, and this is absolutely a complex, intellectual exercise, the status quo, I think, is unacceptable. Doing nothing, for me, is not the right answer.

EDUCATIONAL AND PUBLIC SECTOR INPUT TO RATINGS SYSTEM

Mr. FLEISCHMANN. Will you be sharing this information about how the system will be developed with the public, including the institutions that will be rated, prior to implementing it?

Secretary DUNCAN. Absolutely. And we have met with countless presidents and board chairs and faculty members and students. And they are helping to shape this. And we are very much listening very, very closely to the input on both what would make sense and things that we should, frankly, steer away from. So it is a very open and transparent process, with a huge amount of public comment. And it is making us much smarter.

Mr. FLEISCHMANN. Thank you very much, Mr. Secretary.

Mr. Chairman I yield back.

Mr. WOMACK [presiding]. The gentleman from California, Mr. Honda, is recognized.

“FOR EACH AND EVERY CHILD”—EDUCATIONAL EQUITY

Mr. HONDA. Thank you, Mr. Chairman. And welcome and thank you for joining us, Secretary Duncan.

A little more than a year ago, the Equity and Excellence Commission, formed at the request of Congressman Fattah and myself, released its game-changing report entitled “For Each and Every Child.” And this Commission was composed of 29 educational thought leaders from a variety of backgrounds. And I want to thank you again for the work that you and your staff did to make this report a reality.

The report highlighted five foundational steps to improve equity for each and every child. One is improving school finance systems; second is empowering teachers, principals and curricula; third was providing high-quality, early childhood education; fourth is mitigating the effects of poverty; and, fifth, improving accountability in governance.

I believe it is particularly important that the report incorporates both excellence and equity. Equity ultimately means providing every child with the fiscal and human resources that they require according to their individually-assessed needs. Every child is unique, which means that we have to move our thinking and our—some of our principles that we operate from, from all children to each and every child.

I applaud your work in proposing a program that will be entirely focused on improving equity and beginning the work that was laid out by the Commission.

RACE TO THE TOP—EQUITY AND OPPORTUNITY PROGRAM

So, Mr. Secretary, can you share with us some of the ways in which the proposed Race to the Top Equity and Opportunity Program, when implemented, will address the findings for the Each and Every Child report?

Secretary DUNCAN. Happy to do it. First, I just want to thank you and Congressman Fattah for your extraordinary leadership. And obviously you have lived this work in a way that, frankly, most political leaders haven’t. This is in your blood. You understand both the challenges and the opportunities. And this was a significant step in the right direction.

I carry around in my briefcase sort of a list of the final recommendations of the Equity Commission to keep them forefront in my mind. So just a couple things.

The Commission talked about the importance of early learning. You know exactly what we are trying to do there. And I keep saying I think that maybe the best investment our Nation can make, is to get our babies off to a good start and get out of the catch-up game.

In this year’s budget, we are asking for \$300 million to do a Race to the Top equity and opportunity proposal. And your point is exactly right. This has to be about both excellence and equity. Too often these things seem to be in conflict. Again, that is the wrong fight. We talked about college versus career, that being the wrong

fight. Raising the bar for all, as well as leveling the playing field. That is where we have to go.

And it is so interesting, Congressman. We have about 16,000 school districts in this country. And the theory there is to be great laboratories of innovation at the local level. In many areas, we see that. But I just keep asking a fundamental question—I keep hoping to be proven wrong. I keep asking, do we have one school district, one out of 16,000, that systemically identifies their hardest working, their most successful, their most committed teachers and principals and moves them to the children and communities who need the most help? Be that inner city, urban, be that rural, be that remote. And, Congressman, I don't know of one school district that does this at scale. We have a handful that are starting to do some creative things.

And if we think that great teachers matter, which I believe passionately, and I know you do, if we think great principals matter, if we think schools can have a huge impact in moving students out of poverty and into the mainstream and giving them a chance to be successful academically and educationally and ultimately in the world of work, we need to do more work in this area.

When I talk about how today in many school districts high minority schools, their teachers get paid less than teachers in low minority schools and when you look at the lack of access to AP classes in many of our disadvantaged communities, that is not equity, and that is not excellence.

So we want to invest in those districts that are willing to challenge the status quo, that take to heart so many of the recommendations that you made, and to do something very different.

CIVIL RIGHTS DATA COLLECTION—DISCIPLINE

I also want to just quickly talk about the discipline guidance we put out. We are stunned with the Civil Rights Data Collection. This was after your report came out. But we see children in prekindergarten, as young as 4 years old, being suspended. And we worry about the school-to-prison pipeline. I was just stunned, absolutely stunned to see that that pipeline begins as early as 4 years old. That is horrific.

POVERTY IS NOT DESTINY

And, again, working with people who are willing to do some things differently, we have a chance to show that, you know, poverty is not destiny, that children of color can be successful. But we and you know, they need to be in school. They need not to be suspended and expelled. They need access to great teachers, they need access to great after-school programs, they need access to AP classes. And, guess what, if we do that, those students are going to do just fine.

Mr. HONDA. I guess my time is up. I will wait for the next round. Thank you.

RACE TO THE TOP—EQUITY AND OPPORTUNITY

Mr. WOMACK. You got a stop sign there. I will recognize myself. More on the Race to the Top and the Equity and Opportunity Initiative.

I would just like for you to explain how a competitive program actually addresses equity. Because—and I have got a lot of the rural districts in my State, for sure, and certainly in my district in the State. And, Mr. Secretary, rural districts do not have the same capacity to be able to hire grant writers and what have you, to be able to track a lot of these types of programs.

RURAL ABILITY TO COMPETE FOR FUNDING

So if—it just seems to me that sometimes these grant programs further exacerbate the problem because of the resource gap here between certain districts. It just seems like it creates a bigger divide, creates winners and losers in public education. So how can we best ensure that Federal resources are going to places that really need them? And how do we ensure that we are not going to short-change those that do not have the capacity that others may have?

Secretary DUNCAN. It is a really thoughtful question. What we have worked hard in every one of these competitions—and I will get to the Race to the Top—Equity specifically—but on the Promise Neighborhoods work, on the Investing in Innovation, the i3 work, on the School Turnaround grants, I think, frankly, we have gotten smarter and more sophisticated in doing this and doing rural set-asides and rural slates. And I talked earlier about the Ohio Appalachian Collaborative that is getting remarkable results for, you know, very rural communities in just a couple of years. I have been to very rural Kentucky, where we are doing—some interesting work going on there. The Berea College and their collaborative there is doing fantastic.

So again, hold us accountable. We are happy to give you the results. When we did the School Turnaround money, the School Improvement Grants, folks thought, well, those models won't work in the rural communities. Lots of noise there. We actually found that the rural communities got slightly more than their fair share; they are about 20 percent of districts, they got about 25 percent of the money, and my numbers aren't exact. And they have done, you know, just fantastic. They have done very, very well.

So we will continue. The President's announcement yesterday on high school redesign, the CTE stuff you asked about, some fantastic rural districts—one in Mississippi, I think, that is one you know—won that. So we are trying to make sure we have set-asides to do it the right way. Happy to get you some results program by program.

Having said that, in all of these, there is not enough money. So there are many more great both rural and urban and suburban applicants than dollars available. But we think we are spreading that money in a pretty thoughtful way. And obviously, if we are trying to create national models, which is the goal, that only is valid if we are investing in rural communities, in suburban communities, and urban communities as well.

[The information follows:]

RURAL SUCCESS IN KEY COMPETITIVE GRANT PROGRAMS

Rural applicants have enjoyed considerable success in competing for Department of Education discretionary grant funds over the past 5 years, as shown below:

- School Improvement Grants (SIG): In the two large initial cohorts funded primarily with the \$3 billion provided for SIG under the American Recovery and Reinvestment Act, small town and rural applicants received a larger share of competitive awards than suggested by their share of eligible schools. For example, in fiscal year 2009, small town and rural schools made up just under 20 percent of all SIG-eligible schools, but received nearly 24 percent of SIG awards. Similarly, such schools represented 17.5 percent of eligible schools in the fiscal year 2010 State SIG competitions, but captured 19 percent of awards.
- Race to the Top—District: Over half of the districts that received an award in the fiscal year 2012 and 2013 competitions are rural (42 out of 77).
- Race to the Top—Early Learning Challenge: Nine of the 20 States receiving awards from fiscal years 2011 to 2013 serve large rural populations: Georgia, Kentucky, Minnesota, North Carolina, New Mexico, Oregon, Pennsylvania, Vermont and Wisconsin.
- Promise Neighborhoods: The Department has made awards to eight rural communities in Kentucky, Maine, Mississippi, New York, Ohio, and Wisconsin.

FUNDING FOR BROADBAND AND PRESCHOOL

Mr. WOMACK. Like my colleagues, I have a chance to go into our schools. I make it a priority when I am back in district work periods to visit classrooms, talk to teachers, talk to administrators. I have a sister who is a high school principal, so she has my ear a lot, sometimes too much.

Clearly, when I talk to young people, I talk about education being the single biggest thing going on in their lives, short of their faith and their family. But just from the baseline of where their future is, that it is going to be tied to their capacity to get a good quality education. But education is also part of a—part of a universe of things that is going to shape that individual in the future, behavior decisions and their health certainly is part of that matrix. And so it is very key.

I also understand that in the world that we operate in today that the availability of broadband is a fundamental requirement for virtually every sector of society. And I can speak to health care specifically and to education specifically. And I have heard the pleas for more pre-K. But if—because money is an object now. If you could only do one thing, where would broadband rate with pre-K?

Secretary DUNCAN. Great question. Thankfully, I don't have to split that baby. So we want to invest in pre-K. As you know, the FCC is talking about putting as much as \$2 billion behind increased broadband access, rural communities getting a significant share of those dollars. In our budget, we have \$200 million to support teachers and their professional development to use this. So I think we can walk and chew gum at the same time.

And last thing, again, relative to other nations, the fact that we are so poorly serving our students and teachers today to me is just untenable, and we have a chance to break through, again, not just in our agency but working with sister agencies as well.

Mr. WOMACK. Thank you for your comments and your appearance before the committee today.

Gentleman from Ohio, Mr. Joyce.

Mr. JOYCE. Thank you, Mr. Chairman.

PROPOSED COLLEGE RATINGS SYSTEM CRITERIA

Good morning, Secretary Duncan. I always like to know, you know, the President has touted this plan—picking up on some of the things that my colleague, Mr. Fleischmann, had mentioned—but that the college may be based on qualities determined by the Administration. Many are concerned it will be nearly impossible to develop the one single set of criteria to evaluate cross-diverse institutions, such as large research universities, community colleges, small liberal arts colleges, career training. A poll conducted by Gallup on Inside Higher Education found that 65 percent of college professors polled do not believe that the proposed college scorecard will be effective in making college more affordable.

How do you respond to the many concerns about comparing such different schools and programs under one set of criteria?

And, two, and I think we would all agree that increasing the percentage of Pell Grant recipients that graduate and obtain a degree is a worthwhile goal. Do you think that rating colleges based on graduation rates might provide a disincentive for institutions to admit Pell Grant recipients and thus make college access even more difficult?

Secretary DUNCAN. Again, very thoughtful questions. And, honestly, we have thought through many of these. So just to be clear, there is not a proposed scorecard. So anyone who says they are against the scorecard is against something that doesn't exist. We have not put out a proposal yet. We are taking huge amounts of public input. At a certain point, we will put out a proposal. It will be a draft. We will get a huge amount of feedback back on that draft. This is, again, a very open, transparent process. We are listening and learning every single day. Again, dozens and dozens of meetings with folks across the country.

I would just go back to my premise, the fact that you and I and our fellow taxpayers spend \$150 billion each year with zero sense of outcomes. I don't think it is the best use of taxpayer dollars.

What we would put in place is a system specifically designed to avoid those kinds of things. If we do this in a way that is not thoughtful, we would create those perverse incentives that you talked about, like taking less first generation students, and less Pell Grant recipients.

What we have talked about, again, is looking at those numbers specifically, looking at what universities are doing. Are they taking more or less? And are they not just taking them, are they graduating them? So we think with, you know, that one, that actually, intellectually, it is not that difficult. We think we can put in place an incentive structure, and, in fact, we have talked about an idea of having an additional \$1,000 go to the university for every Pell Grant recipient who graduates. So there are some things we can do. Whether that is the perfect idea or not, I don't know. But those kinds of incentives just don't exist today, and we want to sort of put them on the table.

And again, so many of the current public rankings actually are disincentives to that kind of behavior, they are actually hurting the kinds of things that you and I, I think, would like to see happen.

SCHOOL VIOLENCE AND SCHOOL SAFETY ISSUES

Mr. JOYCE. And as always, I thank you for the help that you gave us right after the incident we had, the Chardon School shootings. I noticed here, in "Improving school safety and climate," that you have asked for, you know, some increases obviously.

Could you tell me, since we have started this discussion a couple years ago now, unfortunately, after the Chardon School shooting, what safety improvements have been made or what you are looking to improve in the school systems?

Secretary DUNCAN. And I just have to say, this is a tough topic. But you know it has been maybe 15 months since the—not just that shooting, but the horrific shooting in Newtown, Connecticut. Since that time, we have had close to four dozen additional shootings at schools and colleges. So it is just an untenable level of violence. These are not, obviously, simply school challenges, they are societal challenges. And I am happy to have that conversation, I don't know if folks here want to have that conversation. But I just don't think we take our young people's safety seriously enough. These kinds of mass shootings don't happen in other nations, their children are safer than ours.

So what can we do? We can't solve this problem in schools, but we can help to mitigate it as best we can. So whether it is increased counselors, whether it is increased social workers, psychologists, whether it is more after-school programming. The mental health piece of this is very important. This is not one where I think we should begin to micromanage from Washington. That would be the height of arrogance. What we want to do is have some resources to go out to school districts that want to take on this challenge in a more serious way.

Just one small anecdote from the Civil Rights Data Collection we did at high schools, we found one in five high schools don't even have a counselor. So when you think—you know, this is like college counseling, think about all the mental health issues our kids are dealing with. We are just not listening to, we are not paying attention to the kids that need help.

So we would like to put resources out to places that want to do a better job of supporting the young people and are doing the best they can to create a safe environment.

The final thing I will say is that in the vast majority of communities, schools are the safest places for kids. And until we look at this on a societal basis, we are not going to solve this problem.

Mr. JOYCE. Thank you very much. I will yield back what little time I don't have left, Mr. Chairman.

Mr. WOMACK. Thank you. Before I yield to Dr. Harris from Maryland, I meant to say during my round that I want to offer my congratulations to the Harvard basketball team. I want you to know that I had them winning as a 12 seed in the first round. I did not have them beating Michigan State, however.

Secretary DUNCAN. You chose wisely.

Mr. WOMACK. And I did not win the billion-dollar bracket. And as a result of that, my personal foundation that I was going to set up, which had a component for education, didn't quite materialize.

Secretary DUNCAN. Next year.

Mr. WOMACK. With that, I yield to the gentleman from Maryland, Dr. Harris.

Mr. HARRIS. Thank you very much.

Thank you, Mr. Secretary, for being with us today.

INSPECTOR GENERAL REPORT ON MARYLAND ARRA FUNDS

Just a quick follow-up on the IG's report of stimulus funds spent in Maryland, or I should say, misspent in Maryland. You know, we had a letter go back and forth. I received a letter from your office last August that, you know, we have to wait for the audit to see if we are going to recoup the misspent funds. Is the audit over?

Secretary DUNCAN. I am not sure, sir. I have to go back and check.

Mr. HARRIS. If you can do that in a follow-up, I would appreciate that.

[The information follows:]

AUDIT OF MARYLAND'S USE OF RECOVERY ACT FUNDS

The Office of Inspector General issued audit A03K009, Maryland: Use of Funds and Data Quality for Selected American Recovery and Reinvestment Act Programs, on January 3, 2013. The Department issued the Program Determination Letter, signed by Deborah S. Delisle, Assistant Secretary for Elementary and Secondary Education, and Michael K. Yudin, Acting Assistant Secretary for Special education and Rehabilitative Services, on March 31, 2014.

COMMON CORE STATE STANDARDS

Let me go into a couple of areas. One is the, you know, Common Core, obviously, even the teachers in Maryland have problems with it. So I would hope that we go slow on this and that we don't, you know, tie Federal funding to required adoption in any way of Common Core. You—I mean, you probably hear the same uproar that I hear. So I just hope that that is true.

HIGH-QUALITY PRESCHOOL EDUCATION AND HEAD START

Let me talk a little about the Preschool for All, because that is a big chunk of money you asked for in the budget. And it is interesting, you say, expanding "high quality preschool." But most people would just talk about Head Start being the model. Is that not true? I mean, is this different from Head Start? What are we talking about here?

Secretary DUNCAN. To be clear, Head Start is not prekindergarten, and so what we are talking about, to be clear, is a zero to five, sort of a seamless continuum here, starting with home visitation, and that has been proven pretty effective. But the goal for me is to make sure that children are entering kindergarten ready to be successful.

And across the country, and this would be true, I am sure, in Maryland—I have actually visited some of your early childhood centers—the average child coming from a disadvantaged community or family, the average child starts kindergarten a year to 14 months behind. And quite frankly, we rarely do a great job of catching those students up. And I just keep saying, we have to get out of the catch-up business.

Mr. HARRIS. Right.

Secretary DUNCAN. So the goal is to make sure that, again, we are agnostic about who delivers——

Mr. HARRIS. Why do we expect different results than Head Start? Which, of course, you know, provides a very brief advantage. But I think the objective studies have shown that, you know, it is just not persistent. So why do we think we are going to have a different result?

Secretary DUNCAN. Well, it is more complicated than that. But, again, if you look at the longitudinal studies, you know, folks like Dr. Heckman who have done three- and four-decade, now going on five-decade studies, the long-term benefits to society and the return on taxpayer investment is pretty extraordinary, where it is high quality.

HEAD START

What Kathleen Sebelius has done, to her credit, is again we talk about not just funding the status quo, she is starting to make folks demonstrate results, and where they are not getting results having to recompute for dollars and they may lose slots.

Mr. HARRIS. But before you expand it that wide, wouldn't you want to do some studies somewhere that show—again, using Head Start as the model that failed. I mean, Head Start doesn't present lasting results.

Secretary DUNCAN. So first of all, I would disagree with that assumption. Head Start has not failed. In some places I think it has transformed students' lives; in other places, it has been less successful. And again, having them now focus on quality, which I don't think that agency has done in the past at scale, is a huge step in the right direction.

But we can do many more studies and hope to do many more studies. I think the evidence is unequivocal and overwhelming that high-quality early learning opportunities transform students' lives.

Mr. HARRIS. I get it. High-quality education is always good; it is good no matter what level it exists. The question is, you know, throwing a lot of dollars without proof I think is a little premature in that.

SCHOOL CHOICE

Let me ask you about the D.C. Opportunity Scholarship Program. Are you a fan yet? I mean, we talked about it last year. You were equivocal about the value of the Opportunity Scholarships.

Secretary DUNCAN. I think, again, the results are mixed there.

Mr. HARRIS. So you don't think they are improving? As time goes on, these results aren't improving? The trend line.

Secretary DUNCAN. I haven't looked at the data recently, but going back a ways the results were mixed.

Mr. HARRIS. Well, I know, but again, just as you seek to make improvements with pre-K and hope that you learn and you get better and better and better, I think that is what we see in the charter schools around the Nation. And you know that is true, Mr. Secretary, right? That is what you are seeing from the charter school data, that you weed out the schools whose techniques have not been good. We are left with a charter school system now that has been demonstrated to outperform their——

Secretary DUNCAN. So I am a huge fan of high-performing charter schools, and we put hundreds of millions of dollars—

LOUISIANA CHARTER SCHOOLS

Mr. HARRIS. I am so glad to hear you say that. How about the ones in Louisiana?

Secretary DUNCAN. Just to be clear, that is not news.

Mr. HARRIS. How about the ones in Louisiana? Are you a fan of the ones in Louisiana?

Secretary DUNCAN. High-performing charter schools, be they in Louisiana or anywhere else, are helping to—

Mr. HARRIS. In general, are the Louisiana schools high performing?

Secretary DUNCAN. I can't speak to the whole system. I will say that the Orleans parish district—

Mr. HARRIS. The New Orleans system, yes.

Secretary DUNCAN [continuing]. Has a heavy charter emphasis and is, I think, the fastest improving school district in New Orleans.

Mr. HARRIS. Is it a success?

Secretary DUNCAN. It is going in the right direction. It has a long way to go. It is the fastest improving school district—

Mr. HARRIS. Is it better than the school system that it more or less replaced? Objectively. Come on, objective.

Secretary DUNCAN. Yes.

Mr. HARRIS. Thank you very much, Mr. Secretary.

I yield back my time.

Mr. WOMACK [presiding]. Gentlady from New York, the ranking member of the full committee, Mrs. Lowey, you are recognized.

Mrs. LOWEY. Why, thank you very much.

DEPARTMENT OF EDUCATION CIVIL RIGHTS DATA COLLECTION

I know we mentioned the civil rights data collection before. I would like to pursue that again. The Department of Education recently released the civil rights data collection, a massive undertaking that produced a comprehensive snapshot of civil rights data from every one of our Nation's 97,000 public schools. I understand that this is the first time since 2000 that this scale of information has been collected.

I must admit that I, frankly, found many of the results to be at best discouraging. Nationally, only 50 percent of high schools offer calculus, only 63 percent offer physics, between 10 and 25 percent do not offer more than one of the core courses in the typical sequence of high school math and science education, such as algebra 1 and 2, geometry, biology, chemistry.

And there is even less access for minorities. One-quarter of high schools with the highest percentage of African-American and Latino students do not offer algebra 2. A third of these schools do not offer chemistry. Fewer than half of American Indian and Native Alaskan high school students have access to the full range of math and science courses in their high school. This is really distressing.

Can you talk about the impact on our children, our education system, of this kind of inequity, and what it says for our country's

ability to lead in the global economy, and maybe even more importantly, what are we doing about this?

Secretary DUNCAN. Well, first of all, I just appreciate you raising this. And these are difficult issues for folks to talk about. They involve race, they involve class. But guess what? It is the truth. And unless we as a Nation are willing to have these honest conversations, we can't move forward.

EARLY LEARNING IN THE U.S. COMPARED TO OTHER NATIONS

And what is so devastating to me is, again, there are things that, many of these things that we knew or thought we knew anecdotally, but now to have the data, again just to have it all be very transparent, we can have these conversations. We have never had this comprehensive data from every single school. But what is troubling to me and what I would love to figure out is how I can better work with Congress on this because these facts in our country are the opposite of what is true in other countries.

And our children today aren't just competing in Alabama or Maryland or Ohio or New York for jobs, they are competing with children in China, in India, in South Korea. In South Korea poor children are more likely—more likely—to have a high-quality teacher, to have an experienced teacher than not. That is absolutely the opposite here. In other countries, virtually every child has access to high-quality preschool.

Mrs. LOWEY. Excuse me, in South Korea, and I appreciate the information, is the Federal Government paying the total cost of education, whereas in our country it is about 6 to 9 percent?

Secretary DUNCAN. There are different arrangements, but there is often a national commitment to making sure that underserved communities get access to high quality preschool. And South Korea does interesting things, China does interesting things, Singapore, too. So there are many examples out there. But basically what these other countries have said is we want education to be the great equalizer. And if you look at our spending in education relative to other nations, we are virtually at the bottom in terms of closing that opportunity gap.

So these are things that, again, are difficult conversations, not things we can be proud of. But ultimately, if we want to have strong families, if we want to keep good jobs, high-wage, high-skilled jobs in this country, the best way I know how to do that is to have a well-educated workforce. And if we don't have access to early childhood education, if disadvantaged children don't have access to experienced teachers, if they don't have access to after school programs, if they don't have high school counselors, if they don't have access to AP classes, how are they going to be successful?

Mrs. LOWEY. Well, I would be interested in your response in the next couple of seconds, because in the United States it is about 6 to 10 percent, it varies, money for the schools comes from the Federal Government. Most of it comes from State and local taxes. So how do we deal with this?

Secretary DUNCAN. Well, I think again there are many countries we could look to if we want our children to successfully outcompete

them and keep jobs here, but other nations have taken this challenge on in a much more serious way than we have.

Mrs. LOWEY. Well, I do hope we can continue this conversation.

Secretary DUNCAN. I would love to.

Mrs. LOWEY. Because when you look at the numbers, it is certainly not numbers that would make us proud as Congresspeople from the United States of America. And I thank you.

Secretary DUNCAN. I think we are poorly serving our children and ultimately our country.

Mr. KINGSTON. Thank you, Mrs. Lowey.

And, Ms. Roby, is it okay with you if I jump in? Because if you are in a hurry, I would go ahead and yield to you.

Mrs. ROBY. Go ahead.

Mr. KINGSTON. Okay.

COLLEGE- AND CAREER-READY STANDARDS

Mr. Secretary, and you know how it is, the season we have a lot of constituents coming and going, so I had to hop out to meet with some folks. But Common Core, quite a firestorm with a lot of different people weighing in on it. Recently Indiana pulled out of it, Oklahoma passed its legislation with second thoughts. Do you think that the core was developed too quickly? Was there enough input from teachers, parents, and officials to have a voice on individual states?

Secretary DUNCAN. Well, obviously this was an absolutely voluntary effort that was led by States across the country and across the political spectrum. In some places they did a great job in terms of public input and participation, other places they probably didn't do enough. And just to be very clear with this group, I am just a big proponent of high standards, and whether they are common or not is sort of secondary. We just want students to be college- and career-ready once they graduate from high school. We partner with States that have been part of that effort, we partner with States that have done their own thing as long as they can demonstrate high standards.

And let me just give you why I think that is so—

COMMON CORE OF STATE STANDARDS

Mr. KINGSTON. Well, let me just jump in. Ultimately, though, and I am, you know, son of a college professor, brother of a college professor, I certainly believe in high standards, but I think the common word is something that it is very hard to just glaze over. But ultimately, who is in charge of the child's education and what they learn in the classroom? Feds? State? Local? Parents?

Secretary DUNCAN. I think that is both the beauty and the complexity of education. I think everybody has a role there. Ultimately, parents, I think, are the most important first teachers, the most important teachers. You know, my wife and I, if we are not helping our sixth-grader and our fourth-grader, we are part of the problem, not part of the solution. So it always starts with parents. But schools, districts, states, us, everybody has a role.

Mr. KINGSTON. We are right now looking at math and English, right? Will there be other standards that will come out, science, language, art?

Secretary DUNCAN. Again, that is up to the States. So if States want to move in that direction, they will; if they don't, they won't.

COLLEGE-LEVEL REMEDIAL EDUCATION

Can I just quickly, this is an important point to make. So on virtually every measure Massachusetts is the highest-performing State in the country. I recently visited there. And so from our highest-performing State, not amongst the high school dropouts but amongst the high school graduates, roughly 35 percent of Massachusetts high school graduates who go to 4-year public universities are taking remedial classes. They are not ready.

And so my question for each of you, in your States, what percent of your high school graduates are taking remedial classes, burning Pell Grants on remedial classes, not prepared? And so when we dummy down standards to make politicians look good, which happened under No Child Left Behind in about 20 States, across the political spectrum, great for politicians, bad for children, bad for education, bad for the country.

So I would just be curious for each of your states, what is your college remediation rate today? And if Massachusetts is 35 percent, I would be very surprised if any of yours was much below that. So what we have been doing for far too long is passing kids along, making politicians feel good, but really serving our students poorly.

COMMON CORE AND STATE FUNDING

Mr. KINGSTON. What percentage of Federal grants are tied to a State's acceptance of Common Core?

Secretary DUNCAN. Zero. We advocate for high standards, but we never said they have to be common.

Mr. KINGSTON. Okay. So there would not be any kind of grant funding that hangs over them?

Secretary DUNCAN. No. What we ask is that if States demonstrate to us, basically saying, if they are a local institution of higher education, can say that students hitting this benchmark will not have to take remedial classes, that is our bar. So we have partnered with States from Texas to Alaska to Virginia to Minnesota that haven't been part of that common initiative. And as long as States are, again, not dumbing things down, we want to work with them.

Mr. KINGSTON. So there are not any plans for grant opportunities that are hooked into Common Core for States?

Secretary DUNCAN. No, sir.

INDIVIDUALIZED LEARNING

Mr. KINGSTON. Okay. Getting back to the earlier question when you said that the complexity of education where you do have parents and everybody is a little bit involved in it, what is your philosophy on making sure that there is not too much of a one size fits all? Because one thing I have learned growing up in an education family is I often quote the Loretta Lynn song where she is talking about being a mother: One needs a spanking, one needs a hugging, and one is on the way. And I often feel, you know, the teacher in the classroom really is the best person to know who needs extra

help on the curriculum, you know, the quadratic formula, the spelling, the geography, who needs some discipline, who needs extra homework.

Secretary DUNCAN. So I agree 100 percent. I am a huge believer, and we call it personalized instruction or individualized learning. This past year's Race to the Top effort went to districts that were doing exactly that. The idea of one teacher teaching 30 children the same thing at the same time simply doesn't make sense. And how we help empower teachers to teach to each children's strengths and weaknesses, let them move faster if they are ready, give them more help, that is where education is going, and we want to do everything we can to accelerate that movement.

Mr. KINGSTON. My time is expiring, but for the record I would like to know what is built in to keep Common Core from being a centralized decision-making body that takes that flexibility away from the teacher and the classroom and the parent?

Secretary DUNCAN. You have to talk to States. Again, this is a State-led effort. But, again, standards are just simply what you have to know to graduate. How you teach to that, how you help students get there, that should always be determined at the local level. So having a high bar for everyone, I think, makes sense, but having tremendous flexibility and creativity to hit that higher bar, I think that is the right combination.

Mr. KINGSTON. I am being very liberal with my time, but the question, though, so you are good with high standards, but in terms of common, you are okay not having common?

Secretary DUNCAN. Yes. And to be clear, that is not news. So what we have always said is we want high college and career-ready standards, internationally benchmarked, and we want a lot more students to graduate from high school, we have got to reduce drop-out rates, but we want a lot less students who graduate from high school taking remedial classes in college.

Mr. KINGSTON. Okay.

Ms. Roby.

Mrs. ROBY. Thank you.

RACE TO THE TOP FUNDING AND COMMON CORE

Before I get to my question, just to clarify on one point, so Race to the Top dollars have never been associated with the adoption of Common Core?

Secretary DUNCAN. What we have said is you could have common high or, again, if you demonstrate that you come to the table with high standards within your local institutions of higher education. Then we are fine with that. And again, we are partnering with States like Alaska; States like Texas; Virginia, where I live. Minnesota is in on, I forget, they are in on reading, not in math, or vice versa. And so we are for high standards.

FEDERAL TRIO AND GEAR UP PROGRAMS

Mrs. ROBY. Recently, the Administration has highlighted the need to prioritize postsecondary access and success for low-income, first-generation college students, and this goes a little bit to the ranking member's line of questioning a minute ago. But given this, I am puzzled as to why you would put forth a budget with a \$1.3

billion increase overall but not additional funding for a program that explicitly works to ensure that low-income, first-generation students have access to college and succeed once there, and this is the Federal TRIO Programs.

You know, this level of funding proposal is particularly troubling given that there is evidence from a recent evaluation that participants in these programs are more likely to obtain a bachelor's degree than non-participants. I mean, this is the program to provide services to students who come from low-income families, and it is important that these are opportunities for all Americans, regardless of race, ethnic background, or economic circumstance.

So can you explain to the committee why this is a program that is proven to be successful and yet it is level funded and there are new initiatives?

Secretary DUNCAN. So we maintain our commitment to both TRIO and GEAR UP, programs that we do think do a really good job there. And again, if this Congress wants to appropriate more resources for education we would love to do more in that space. We also worry a lot about the cost of college, and so the goal is not just to get them there, but, you know, to address the debt levels which we think are pretty extraordinary.

So where we have some discretion, trying to find ways to bring down the cost of college, not just increase access but increase completion rates, we think programs like TRIO and GEAR UP are doing generally, not always, generally a good job of helping students get there. The goal is not to get there; the goal is to graduate at the back end, and not have a mountain of debt, and so we are trying to be much more creative on that higher-ed side. This is obviously a continuum, you know, starting with the early childhood piece that we talked about earlier.

Mrs. ROBY. Right. And, I mean, we want to be for programs that work, and there is clearly a lot of evidence that I have been given, I mean, my State is benefitting from this program tremendously.

Secretary DUNCAN. TRIO and GEAR UP, again, we are investing about \$1.1 billion each year, so it is not an insignificant investment and we want to continue to do more there. And then we want to make sure that their alums have a chance to graduate and graduate not buried by debt.

Mrs. ROBY. Thank you. And thank you for being here again today.

And, Mr. Chairman, I yield back.

Mr. KINGSTON. Mr. Honda.

Mr. HONDA. Thank you, Mr. Chairman.

DETERMINING HOW TO FUND EDUCATIONAL EQUITY

I am just going to deviate from my question and just make a couple of comments. A lot of good questions today, Mr. Secretary, and there are thoughtful questions. And I think the public education system in this country is so complex, it is so diverse, and if you say there are 16,000 school districts, it proves that we know that there is something missing in our pursuit for public education for our kids.

I don't think there is anyone that says that they don't want to see excellence or they don't want to see their youngsters learn and

perform. I don't think anyone is saying that we don't want to see teachers become the best trained and skilled folks that work with our kids.

Yet, when we ask the question who is most responsible for public education and the education of our youngsters, there is no one simple answer. It is all of us, you know. But if it is all of us, then how do we create a team that is a national team that has common goals, a common direction?

And I think that the word "equity" is really something that we are going to have to really look at very carefully. In the context of how we as States and local government fund our schools, how we train our teachers, how much money we put into our public education system, pre-K to postgraduate, we are all over the place, but we still have the one common sentiment, that is, we want to see excellence come out of it.

EQUITY OR PARITY

It seems like we need to have a broader discussion about what we mean by equity and all the things that we are talking about that we expect from our system and from ourselves, what that term equity means, because currently we are funding all of our schools based upon average daily attendance, I suspect, and average daily attendance is about X amount of money behind each child.

So we are really pursuing equal amounts and we are pushing higher and higher the amount looking for that thing we call equity, but really what we are looking at is equal amounts behind each child. And then Mr. Kingston knows that in his family there is a bunch of teachers that know that each child is different, each child can learn, but each child is going to cost a little bit different than the other child.

FEDERAL RULE IN EDUCATION

So basing our finance system upon ADA, that is parity, not equity. And so I think that we need to look at the other question Mr. Kingston had asked, what is the role of Federal Government? And should we be looking at the Federal Government's participation in covering the cost of educating each and every child along with partnership with the States. Because right now the States, all 50 of them are struggling, and when they have to balance their budget, education is the one that gets cut in order to balance the budget.

And so, you know, I think Mr. Kingston's question is still pertinent: What is our role? Upon what concept will we be partnering with States? And if we say it is equity, if we say equity for each and every child, then how do we know what each child needs? We have strategies already that exist, we have all the tools that exist right now, but we haven't sat back and looked at the stuff to put it together as a national effort.

And I guess I would commend folks to read the report on equity and excellence for each child because it does address rural, it addresses poverty, but it doesn't address it in isolation of other things.

RESPONSIBILITY FOR OUTCOMES OF SCHOOLS IN POOR DISTRICTS

And so with the time remaining I will just close with this. It is interesting that we find poor-performing students in general and poor-performing schools, we find poor-performing schools in poor neighborhoods.

My question is, I don't think cities and counties go about looking to create poor neighborhoods. So how do we achieve, what happens when we get to poor neighborhoods, what are the dynamics in it, and what responsibilities do local governments have for the outcomes of the kinds of schools we see in those neighborhoods?

Is there another question that we need to couple with our youngsters? Is there another question that we need to couple with education? And I suspect that education is considered the infrastructure of our cities. If so, then I think the cities and counties ought to look at that question also, along with schools, so that we can achieve this thing we call equity.

Thank you, Mr. Chairman.

Mr. KINGSTON. Thank you, Mr. Honda.

Mr. Joyce.

COLLEGE LEVEL REMEDIAL EDUCATION

Mr. JOYCE. Thank you, Mr. Chairman.

Secretary Duncan, you brought up a part before that certainly has piqued my interest while you are here about the fact that we are doing retraining, if you will, of many of these kids who end up in college, whether it is our State colleges or community colleges, unfortunately.

STEM EDUCATION

And I am concerned about the U.S. STEM education, our ability to meet the domestic demand for STEM labor. How will STEM proposals included in the President's 2015 Budget deliver effective STEM education to more students and more teachers?

COLLEGE LEVEL REMEDIAL EDUCATION

Secretary DUNCAN. And, again, just to go back, what I gave you was remediation rates, to be clear, at 4-year publics in Massachusetts. Obviously, the remediation rates at community colleges would be even higher. So as you go back home to Ohio, see what it is at Ohio State, see what it is in community colleges, and it would be pretty stunning. So obviously we know so many of the job—

Mr. JOYCE. President Gee was very specific that that doesn't happen. But all those kids who go to Newark or Mansfield or the outlying campuses, those are the ones who are getting the training, but the ones at the institution itself are not getting trained.

STEM EDUCATION

Secretary DUNCAN. So obviously, for so many of the great jobs of the future you are going to need some STEM skills, so there is not one simple answer here. I am a big believer in getting more teachers who love the STEM content areas, are comfortable with it, in the primary grades. This can't just be AP physics and calculus. So

how do we recruit the next generation? The President has challenged us to bring 100,000 STEM teachers there.

We also want to create a STEM master teacher corps and have great STEM teachers help to mentor, not just attracting great talent but retaining that talent, bring them in. And then we are seeing some really interesting work where entire communities are rallying sort of STEM networks, STEM innovation networks, where K to 12, higher ed, and industry are partnering to create opportunities both for children and for teachers. So we would love to invest more resources in all of those areas.

Mr. JOYCE. I think it is very important. And one small thing I was doing is bringing high school students along with me and going to tour factories, quizzing them before they go in, what do you expect to see here? And then talk to them on the way out and say, what did you see here? And they are overwhelmingly amazed about the difference between their initial thoughts and then what they—

Secretary DUNCAN. Those are high-wage, high-skilled jobs.

Mr. JOYCE. Correct.

Secretary DUNCAN. And we want to keep them in our country and not have them go overseas. And we desperately need to train more young people to be successful there.

Mr. JOYCE. And the ability to be able to perform that job and make money and be able to pay for their school instead of coming out with such a large debt.

Secretary DUNCAN. Yeah.

COMPETITIVE VERSUS FORMULA GRANT FUNDING

Mr. JOYCE. Secondly, I would like to follow up on, you know, I noticed in the fiscal year 2015 request a higher percentage of competitive discretionary grants than the levels currently enacted. Can you explain the desire to move away from formula grant funding, and how will the Department ensure certain schools and students aren't left behind?

Secretary DUNCAN. Yeah. I actually don't think that is quite accurate. And, Tom, correct me if I am wrong. I think we are about, as I said earlier, about 11 percent competitive, 89 percent formula. I think we actually went slightly in the opposite direction. But tell me if I am wrong.

Mr. SKELLY. It is a slight increase in competitive funds in the 2015 request compared to what is under current law in 2014.

Mr. JOYCE. And I apologize for having misread that.

I yield back, Mr. Chairman.

Mr. KINGSTON. Thank you.

Mrs. Lowey. And, Mrs. Lowey, I wanted to have one more question and then I am finished. How are you?

Mrs. LOWEY. That is fine. Just one more question.

Mr. KINGSTON. Okay. Great. Thanks.

Mrs. LOWEY. Thank you very much.

And thank you again for your leadership.

HIGHER EDUCATION COSTS AND STUDENT DEBT

We touched on it before, but I know we are all very concerned about college costs, financial aid. More than two-thirds of students

who graduated with a bachelor's degree took out student debt to pay for their undergraduate education. Of those students with loans, the average amount of student loan debt is \$29,400, just shy of \$30,000.

A decade ago, only one-third of students who earned an associate degree took out student debt. Now it is up to one-half. To make matters worse, nearly 90 percent of students earning associate's degree at for-profit colleges finish with debt. And the amount of debt increased substantially, adjusted for inflation. Average debt for a student earning an associate's degree increased from \$12,100 to \$17,200, a jump of more than 40 percent.

Now, I know, Mr. Secretary, your Department has spent a lot of time trying to help students make informed choices about where to go to college, whether a particular school is worth the investment. Can you tell us if it is making a difference? Are students actually using the tools at their disposal? Have you done studies to find out what sources of information students use to make their college decision? I would be very interested in what you think you can do about this because it is just out of sight.

Secretary DUNCAN. Yeah. So I think we still have a long way to go, frankly, and it is something I worry about everywhere I go. And it is not just disadvantaged communities. This is hard-working middle-class families that are starting to think that college is for rich folks, it is not for them. And when that starts to happen, again, there is no upside for families or for our country.

So I will come back to what we are doing specifically. But I always say this is about shared responsibility.

Mrs. LOWEY. By the way, I think what you just said is absolutely essential. I met with a group of kids, they would be considered middle-class kids of firefighters and police; they can't even go to Fordham College in New York. It is now up to \$60,000.

Secretary DUNCAN. It is staggering. The President and I were up in Buffalo, and the cost, it is overwhelming in some places. So again, shared responsibility. We have a role to play. I will come back.

States have to reinvest. So many States cut back, about 40 States cut funding to higher ed. When they cut funding to higher ed, what do universities do? They jack up their tuition, pass it on to students. And then universities have to do a better job of containing costs and using technology and other things and increasing value. So we all have a role to play.

PELL GRANT FUNDING

So, you know, one of the things I am most proud of was the additional \$40 million for Pell Grants. We did it without going back to taxpayers for a nickel. We are trying to do a lot more in the transparency side, with the score cards and other things. We are also doing things on the back end, income-based repayment, Pay As You Earn, those kinds of things to give students options.

But I really worry going forward that the Ryan budget over the next 10 years takes all these things in a pretty dramatic way in the wrong direction. A huge loss of access to Pell Grants, you know, and other impacts there. And, again, are we comfortable being 12th in the world in college graduation rates? Is that a badge of honor?

Or do we want to be first again? Are we comfortable having student debt double basically over the past, whatever it was, decade? And I worry about young people trying to buy a home or, you know, buy a car, or start a business with this mountain of debt.

So collectively, again, we have got to cut through politics, cut through sound bites and ideology, work together to again lead the world in college graduation rates and make sure young people have manageable debt at the back end. So a lot of hard work. So I would not declare success by any stretch right now. We have a lot of hard work ahead of us.

Mrs. LOWEY. Well, let me just say, Mr. Chair, I think this is one of the biggest challenges we all face, because when an average kid can't afford college, even with a Pell Grant, we should all be concerned about that.

So thank you very much, and thank you for your leadership of this hearing.

Mr. KINGSTON. Well, thank you, Mrs. Lowey.

EARLY LEARNING PROGRAMS

I wanted to ask about, there are 45 early learning and child care programs; 25 have an explicit purpose to provide childhood education and care and 33 permit funds to be used for such initiatives. It would appear to me that we would not need that many, and that if it was that successful, we wouldn't need another \$75 million for a preschool initiative.

And it would also appear to me that somebody like you who did so much of this kind of challenge in the bureaucracy in the Chicago system would be looking at this and looking at 45 and say, whoa, whoa, whoa, we have got to consolidate, we have got to cut.

Secretary DUNCAN. No, we are happy to continue to do that. And actually, the 45 is closer to 12, so the 45 number isn't quite accurate. But your point is well taken.

Mr. KINGSTON. Well, the 45 includes the 33 funding streams.

PRESCHOOL FOR ALL PROPOSAL

Secretary DUNCAN. So, again, where we can consolidate, where we can work together. But I want to be really clear, if all we are doing is investing in the status quo, that is not going to get us where we need to go. And the goal of our Pre-K for All proposal is to go from about 1.1 million students served to about 2.2 million. We want to double. So we need to use every existing dollar wisely. I am absolutely with you there.

NEED FOR INCREASE IN PRESCHOOL FUNDING

But I want to be clear to this committee and to the public that the only way to get to scale, as so many other nations have done much better than us for a long time, is we are going to have to increase our collective investment, and we need folks across the political aisle to understand that.

Mr. KINGSTON. But of the 12, surely some work better than others. And I am wondering if you have rated the ones that are better. Because, you know, we would love to work with you to eliminate those, but you don't propose eliminating any of them.

Secretary DUNCAN. Well, to be clear—

ELIMINATION OF DUPLICATIVE AND INEFFECTIVE PROGRAMS

Mr. KINGSTON. And one other, this is a pet peeve of mine, across all government agencies they never will rate the effectiveness of these programs. For example, down the hall from you, 47 different Federal job training programs. And, you know, you ask them, well, which one should be eliminated? Oh, they are all good.

Secretary DUNCAN. Yeah. No, no, no. So to be clear, we can give you programs from our Department that we have eliminated over the past 5 years and the hundreds of millions of dollars, if not billions that we have saved, so hopefully you will see we have tried to walk the walk and be very, very clear there. We will continue to do that. We don't have 45, or 12, early childhood programs under our jurisdiction.

As I said, Kathleen Sebelius is starting to rate Head Start providers in ways and move seats that has never happened historically, so some movement in the right direction. But I just want to come back to my fundamental point, that I am 100 percent convinced we need a massive increase, a massive investment to create more opportunity for children who aren't served.

PRESCHOOL EDUCATION RETURN ON INVESTMENT

Mr. KINGSTON. No, but investment alone isn't anything. It has to be always return on investment.

Secretary DUNCAN. Yeah. ROI.

Mr. KINGSTON. And that is where I think we would want to have—

Secretary DUNCAN. Well, again, let me just be clear, high-quality early-childhood—

Mr. KINGSTON. I have a difficult question for you in a minute, so I am just warming you up.

Secretary DUNCAN. Let me just finish. A 7:1 ROI. And I would ask you guys as you fund other things across—

Mr. KINGSTON. Well, yes, but, you know, I studied economics and I sat there and I listened to you, and I don't believe anybody would really bet the bank on this study.

Secretary DUNCAN. So I would invite you—

Mr. KINGSTON. Because it would be impossible to really follow that through.

Secretary DUNCAN. I would invite you to invite James Heckman, who is a Nobel Prize-winning economist, who is definitely smarter than me on this stuff, may not be smarter than you, to come and testify and lay out—

Mr. KINGSTON. Well, there are a lot of people who win Nobel Prizes that you wonder about sometimes. Maybe we need to bring him in here and ask him a few questions.

Secretary DUNCAN. That is fair. And there are many other studies that talk about the long term. I think the evidence is overwhelming. The evidence is overwhelming.

Mr. KINGSTON. All I want to know from you, though, is the return on investment. If you have got 12 programs, which ones are giving you the best bang for the buck, and why can't we eliminate some of them or the 33?

Secretary DUNCAN. That is a fair question. Again, we don't have 12 under our jurisdiction. You asked an administration-wide question. That is a fair question.

Mr. KINGSTON. And I am going to yield to Mrs. Lowey, but I do have—

INTERNATIONAL EDUCATION AND FOREIGN LANGUAGE STUDIES

Mrs. LOWEY. I can't resist. I wasn't going to ask another question, but when you are talking about cuts, in fiscal year 2011, Congress made a series of dramatic cuts to a large array of education programs including—

Secretary DUNCAN. Including early childhood.

Mrs. LOWEY [continuing]. The International Education and Foreign Languages Program and higher education. I happen to have a couple of grandkids that are bilingual, and I know what an advantage they have. After years of steady growth, funding for Title VI programs was cut by 40 percent. Now, these cuts have had a real impact on students, cancellation of hundreds of less commonly taught language classes across the country impacting thousands of students, and efforts to rebuild that funding level have been slow given broad fiscal challenges and the sequester.

However, this is why I just wanted to close with this, the need for national resource centers, foreign language and area studies fellowships, the focus these programs provide on intensive study of world areas and foreign languages, particularly less commonly taught languages from regions of strategic importance to the Nation has only increased since 2011.

So the United States engages with virtually every nation around the globe through trade, open markets, international negotiations with no plan to scale back on our internationalization efforts given the tremendous importance and value our country places on being global leaders. How does the Department plan to strengthen and grow these programs moving forward?

Mr. SKELLY. The big thing we did, we got a \$4 million increase in the 2015 budget; we had a \$2 million increase in your appropriation in 2014. So we are, I think, headed back in the right direction.

Mrs. LOWEY. Is that sufficient to meet our international obligations?

Mr. SKELLY. We could always spend more money, but that is what we have in the budget.

Mrs. LOWEY. Does it meet the needs out there now?

Mr. SKELLY. There are a number of needs around the country. We had a deputy for international education, Clay Pell, who was in for a couple of months, and he thought we needed all kinds of instruction, even in languages they speak in Indonesia. We don't do enough there. There are all kinds of languages that we could expand into.

Secretary DUNCAN. Just to be clear, none of these things, whether it is early childhood education or IDEA funding or AP classes or international studies, in none of these is it sufficient to meet the need, not even close.

Mrs. LOWEY. I am glad we closed with that because—

Mr. KINGSTON. Oh, we are not closed yet.

Mrs. LOWEY. Oh.

Mr. KINGSTON. I have to ask Secretary Duncan a hard question in a minute, but you still have the time.

Mrs. LOWEY. I just want to say, I am not going to say increase the language classes at the detriment of pre-K or Head Start. We are the United States of America and we should be able to give our kids a solid foundation, and then at a certain point in their education we should prepare them for international opportunities which create jobs, because this is one of the areas that is providing the most jobs, the best investments. And I hope we think about that as we are preparing this budget, Mr. Chairman. Thank you.

Mr. KINGSTON. Thank you, Mrs. Lowey. And I guess I would not be a good Republican conservative if I didn't say part of the legacy we have to remember to these kids is keeping the fiscal house in order, so that is the balance. But I do want to—

Mrs. LOWEY. Well, I can give you a list of things that I would cut, Mr. Chairman—

Mr. KINGSTON. I think we need to do that.

Mrs. LOWEY [continuing]. But it wouldn't be in education.

Mr. KINGSTON. Well, I think we should look at all of them and measure the budget—

Mrs. LOWEY. And it wouldn't be Pell Grants.

GRADUATION RATES OF PELL GRANT RECIPIENTS

Mr. KINGSTON. Which tees me up for my one of my questions, which isn't the hard question, Secretary. On Pell Grants, I am appalled at the graduation rates, and Ms. DeLauro actually mentioned it in her opening statement. And I don't need the answer right now, don't expect the answer, but I would like it on a timely basis, the graduation rate with Pell Grants and the number of years, because it appears to me that it is appallingly low. And that would be one thing that everyone on all philosophical spectrums should say we need to get more for our money out of a Pell Grant.

Secretary DUNCAN. Yes, couldn't agree more. And again, part of the challenge is, you have to look downstream, to how many of those young people are graduating from high school and yet are not ready, and they are burning Pell Grants on remedial classes.

So that is a problem. The solution is more complex than ever. And I would say the vast majority of those kids are entering college not actually ready to do college-level work, and that is why high standards, college and career-ready standards, are so desperately needed in our country.

GRADUATION DATA ON PELL GRANT RECIPIENTS

Senate Report 113-71 directed the Department of Education to submit a report to the House and Senate Appropriations Committees containing enrollment and graduation information for Pell Grant recipients for the 2012-2013 award year. The Department expects to release its report by the congressionally mandated deadline of May 19, 2014.

STUDENT ATHLETE UNIONS

Mr. KINGSTON. Okay. Hard question: You were a student athlete, union or nonunion?

Secretary DUNCAN. It is a really hard question. And I am not as up to speed as I should be, and obviously, we don't really have a clear play there. I have been talking to a few folks. The NCAA, we

have pushed them very hard to raise graduation rates. As you know, Connecticut, that just won the national championship, couldn't compete a couple years ago after winning the national championship because we pushed the NCAA to put some requirements in there. Thought it was impossible. New president, new AD, new coach. Guess what? Their academics are together and they just won a championship. These things aren't in conflict.

For me, it has to be about students first, athletes second, and in many universities that is not the case. So it is a long conversation. Coaches' incentive structures are all around wins, not around academic performance. So boards are complicit in this, university presidents are complicit in this. You have college coaches making \$7 million. Something is out of whack there.

And so I think for me it raises the really important issue that these things are out of whack and some fundamental and deep reform is needed to make sure that folks just aren't going to college making money for the universities, not graduating, having nothing to show for it. And a number of young people I grew up playing with on the south side of Chicago had that exact experience and came home with nothing. This one is pretty personal to me.

Mr. KINGSTON. Well, that is my question.

CHAIRMAN'S CLOSING REMARKS

And, Mrs. Lowey, if you are through, we will consider this committee adjourned.

Thank you very much, Mr. Secretary.

Secretary DUNCAN. Thank you.

[The following questions were asked to be submitted for the hearing record:]

**Department of Labor, Health and Human Services and Education and Related
Agencies**

Budget Hearing with the Honorable Secretary Arne Duncan

April 8, 2014

Questions for the Record – Chairman Kingston

FEDERAL MANDATES - COMMON CORE

Mr. Kingston: Common Core is a "one size fits all" approach to education that represents a massive and expensive overreach into States' classrooms. In 2012, the overall national cost for implementing Common Core was estimated to be \$16 billion. For example, computer-based tests could cost \$30 per student when previous tests cost \$5 per student. Rural districts cannot afford the technology requirements. In Georgia, Governor Deal and Superintendent Barge announced that Georgia will not adopt the standardized tests that are being created for Common Core because the tests would cost 145 percent more (from \$12.00 now to \$29.50 under Common Core).

However, the Federal Government insisted on tying Federal funds to developing and adopting common standards (of which Common Core is one of the only options).

What percentage of Federal grant funding for education is tied to a State's acceptance of Common Core or similar common standards?

Mr. Duncan: No U.S. Department of Education funding is tied to a State's acceptance of Common Core or any specific set of standards.

COMMON CORE GRANT FUNDS

Mr. Kingston: How much grant funding has been provided to States that have participated in Common Core that was not provided to States that did not accept similar standards?

Mr. Duncan: The Department has not provided any grant funds to States for adopting the Common Core or any specific set of standards.

**COMMON CORE PARTICIPATION AND STATE ELIGIBILITY FOR GRANT
PROGRAMS FUNDING**

Mr. Kingston: Are there any current or future plans for additional grant opportunities that require State participation in Common Core or similar common standards?

Mr. Duncan: No, there are no such plans.

EXTENDED SCHOOL DAYS VS. AFTER SCHOOL PROGRAMS

Mr. Kingston: Your budget request includes language to allow districts the flexibility to use 21st Century Community Learning Centers (CCLC) funding to extend the length of the school day.

The program's authorizing language states that funds shall be used for "academic enrichment" and a "broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students."

Won't using funding to extend the school day siphon funds from after school programs to supplement teacher salaries and simply maintain the status quo?

Mr. Duncan: The proposed flexibility in the use of 21st CCLC funds for allowable activities during the regular school day would apply only where States, districts, or schools have significantly expanded the number of hours in a regular school schedule or have redesigned the school schedule. Such actions are far from "maintaining the status quo," and any decisions on using 21st CCLC funds to support expanded learning time during the regular school day would be made by local officials in response to locally determined needs.

USE OF FUNDS TO EXTEND LENGTH OF SCHOOL DAY

Mr. Kingston: How will you ensure that this funding will be used to meaningfully enhance students' classroom experience?

Mr. Duncan: Under the Administration's reauthorization proposal, the Department would award 21st CCLC funds to States and school districts through a competitive process that would help ensure that the program funds the highest quality applications with the greatest likelihood of improving student outcomes.

APPLICABILITY OF GAINFUL EMPLOYMENT REQUIREMENT

Mr. Kingston: I understand that the Department has published a new draft rule that would define "gainful employment" and restrict Federal funding for certain higher education programs. However, this rule only applies to career training programs, many of which are at for-profit institutions.

Why not subject other postsecondary education programs to these same requirements, instead of holding career training programs to a different standard?

Studies suggest that the Gainful Employment rule, if enacted, could shut down a significant number of programs in proprietary schools, displacing potentially hundreds of thousands of students around the country.

Mr. Duncan: The Higher Education Act (HEA) establishes the eligibility for some programs to qualify for Federal student aid on the basis that those programs "prepare students for gainful employment in a recognized occupation." The proposed regulations set the standards for those programs. Other programs are not required by the HEA to prepare students for gainful employment and so the Department is not regulating on non-gainful employment programs as a part of this rulemaking.

While the proposed rule applies equally to gainful employment programs offered at public, private non-profit, and for-profit institutions, student outcomes at for-profit colleges are particularly concerning. Of the students who are in the lowest-performing programs under our proposed metrics, all except for a small percentage are in programs at for-profit institutions. The Department's estimates show that of the total number of gainful employment programs, nearly 8,000 programs would meet the minimum requirements to be measured by the accountability metrics of the proposed rule. We estimate that the substantial majority of programs, both in for-profit and in other sectors, will meet the rule's requirements. About 2,000 programs would either fail, or fall into the zone for improvement, under the proposed regulations.

It is important to note that these estimates are just a 1-year snapshot based on past data we have collected. This does not mean that all of these programs will lose access to Federal student aid, because the rule will allow all of these programs time and opportunity to improve.

Several provisions in the proposed rule would give institutions time and opportunity to improve programs that do not meet the standards. First, all substandard programs are given multiple years to pass the accountability metrics before they would be made ineligible. Second, for marginal programs, the Department proposes to create a "zone" status where programs are given more time to improve before they would lose access to Federal student aid. And, finally, the first 4 years of the proposed rule includes a transition period that will take into account any immediate cost, and in turn student debt, reductions that institutions make.

WAYS INSTITUTIONS ARE IMPROVING GAINFUL EMPLOYMENT PROGRAMS

We have already seen some institutions start to take steps to improve their gainful employment programs. Some of the largest institutions have implemented trial periods for programs before students have to commit. There are reports that institutions have decreased program lengths which results in lower costs. Some are reducing costs in other ways and also offering scholarships. And a few institutions have closed some locations and programs they judge to be performing poorly. We expect these trends will continue

and, additionally, that some lower performing programs will improve over time and meet the accountability standards of the proposed rule.

Protecting all students is the core value of this rule. Ultimately, students are not being served well by programs that have consistently poor outcomes. Students enrolled in these programs hope to improve their futures. But many could find themselves worse off than when they started. If a school should decide to close or stop offering a low-performing program, students may have options to attend other, higher-performing programs at the same or another for-profit institution, or to transfer to a community college.

DISCLOSURE PROVISIONS OF GAINFUL EMPLOYMENT PROPOSED RULE

Where programs are in danger of becoming ineligible, institutions will be required to issue warnings to students at least a year in advance. Additionally, the disclosure provisions of the proposed rule would require institutions to make information available to students about key program outcomes including student debt, earnings, loan repayment rates, loan default rates, and completion and withdrawal rates. With this information, students will be able to assess their situations and determine the path that makes the most sense for them. That may include enrolling in other, better-performing programs.

We believe there will be viable choices for many of the students enrolled in programs that continue to have poor outcomes and are facing loss of title IV eligibility. For every type of program that does not meet the requirements of the rule in our estimates, there are many more programs, including in the for-profit sector, that provide training for the same occupation that would pass the metrics and whose students would have better outcomes. Further, institutions that perform well under the rule will have the incentive to grow and offer programs to take the place of the ones that ultimately become ineligible.

GAINFUL EMPLOYMENT REQUIREMENT AND GOAL OF INCREASING COLLEGE ENROLLMENT

Mr. Kingston: Proprietary schools serve a different, more diverse student population than other types of higher education institutions—more minorities, more women, more lower-income students, and many non-traditional students from diverse backgrounds. This gainful employment regulation disproportionately targets proprietary colleges, and does not apply across-the-board standards to all institutions of higher education.

How does targeting these programs, and denying students the opportunity to attend the college of their choice, help meet the President's challenge of increasing college enrollment?

Mr. Duncan: The proposed regulations would apply equally to gainful employment programs in all sectors: public, private non-profit, and for-profit. They do not specifically target any one sector. We estimate the substantial majority of programs,

both in for-profit and in other sectors, will meet the rule's requirements. And, the majority of for-profit institutions would have all passing programs. Our estimates also indicate that of the programs that would not meet the requirements of the rule, the vast majority are in the for-profit sector. Even though most for-profit programs will pass the proposed rule, too many have high costs and lead to poor outcomes. For example:

- **Cost:** Tuition to attend a 2-year for-profit institution is four times as much as tuition for a community college.
- **Debt:** 88 percent of associates degree graduates from for-profit institutions have student debt, while only 40 percent of associate degree recipients from community colleges have any student debt. Of those who borrow, for-profit associate degree recipients have a median loan debt of \$23,590, in comparison to \$10,000 for students who received their degrees from community colleges.
- **Default:** Approximately 22 percent of borrowers who attend for-profit institutions default on their Federal student loans within the first 3 years of entering repayment in comparison to about 13 percent of borrowers who attend public institutions.
- **Completion:** The 6-year graduation rate of first-time undergraduate students who began at a 4-year degree-granting institution in 2003-2004 was 34 percent at for-profit institutions in comparison to 65 percent at public institutions.

Further, the Government Accountability Office and others have found evidence of high pressure and deceptive recruiting practices at some for-profit institutions. Undercover investigations found that many students were given misleading information about graduation rates, job placement, and expected earnings. They also found that recruiters often engage in "boiler room"-like sales and marketing tactics and that they are taught to identify and manipulate emotional weaknesses and target members of the armed forces, veterans, and vulnerable populations - like students in transition, women who are pregnant, and those who are struggling with stressful life circumstances - without providing much support once the students are enrolled. The investigations revealed that many for-profit institutions spend far more on marketing and recruiting than on instruction or student support services.

The proposed rule is designed to shine a light on the career programs that are doing good work while making sure students and consumers are aware of those that are not. Saddling students with debt they cannot repay and a degree that fails to lead to adequate earnings is not an opportunity. Further, by bringing accountability and transparency to career training programs and giving institutions time and the opportunity to make improvements, we intend for the rule to create more and better opportunities for students.

OUTCOMES EXPECTED FROM GAINFUL EMPLOYMENT PROPOSED RULE

The outcomes we expect from this proposed rule are: higher-quality programs; reduced costs and student debt; increased earnings and a better return on educational investment for students - most importantly - but also for taxpayers; availability to consumers of more and better information about gainful employment programs; growth of high-performing institutions; and, elimination of the worst-performing programs.

It is likely that this rule could eventually eliminate the worst performing programs: those which are leaving students crippled with debt. But we estimate the majority of programs, both in for-profit and in other sectors, will meet the requirements of the proposed regulations, and that some lower-performing programs will improve over time. Under the proposal, current and prospective students will receive information about program outcomes including debt, earnings, loan repayment rates, loan default rates, and completion and withdrawal rates. This information will empower students to choose programs where they are more likely to succeed. Students enrolled in programs that face ineligibility may also have options for continuing their education, including transferring to higher-performing programs at the same or another for-profit institution or to a community college. And where programs do close, we believe that better programs will take their place.

GAINFUL EMPLOYMENT AND MINORITY POPULATIONS

Mr. Kingston: Why is the Administration targeting programs that disproportionately help minorities and women and represent a real chance for minorities to get a college degree and important skills training?

Mr. Duncan: As stated in earlier responses, protecting all students is the core value of this rule. Ultimately, students are not being served well by programs that have consistently poor outcomes. Students enrolled in these programs hope to improve their futures. But many could find themselves worse off than when they started. Saddling students with debt they cannot repay and a degree that fails to lead to adequate earnings is not an opportunity.

The proposed rule is designed to shine a light on the career programs that are doing good work, while making sure students and consumers are aware of those that are not. Further, by bringing accountability and transparency to career training programs and giving institutions time and the opportunity to make improvements, we intend for the rule to create more and better opportunities for students.

COMMON CORE STATE STANDARDS

Mr. Harris: Although you claim that the adoption of Common Core national standards and tests by the States is voluntary, I would argue that the Administration's Budget seems to state something else entirely. In fact, the President's Budget notes that, "Forty-six States are implementing rigorous college- and career-ready academic standards and nearly all will field test performance-based assessments tied to those standards this spring, a movement fueled by previous RTT [Race to the Top] grants."

Dennis Van Roekel, the President of the National Education Association, arguably the largest teachers union in the country, had less than positive remarks when referring to Common Core. In fact he stated, "I am sure it won't come as a surprise to hear that in far too many States, implementation has been completely botched. Seven of ten teachers believe that implementation of the standards is going poorly in their schools. Worse yet, teachers report that there has been little to no attempt to allow educators to share what's needed to get CCSS implementation right. In fact, two thirds of all teachers report that they have not even been asked how to implement these new standards in their classrooms."

Can you explain why people expected to implement universal access to quality standards with quality instruction have not had the opportunity to share their expertise and advice about how to make the implementation of these standards work for all students, educators, and parents?

Mr. Duncan: The Department worked with States, through both the Race to the Top program and through ESEA flexibility, to support the development of high-quality plans to implement college- and career-ready standards, including standards common to a number of States or certified by a State's public system of higher education. Those plans typically included multi-year timelines for phased implementation, outreach to and the involvement of teachers and school leaders, professional development activities, and technical assistance to school districts and schools.

We recognize that there have been gaps in implementation in many States, and that many teachers do not yet feel prepared to implement effectively new college- and career-ready standards. We are working with States to help address those gaps, and our 2015 Budget Request includes proposals, such as ConnectEDucators, intended to improve the implementation of instruction based on college- and career-ready standards. At the same time, we recognize that there is no one-size-fits-all approach to standards implementation, and that States and school districts are in the best position to assess and respond to the needs of their teachers when it comes to implementing State-adopted, college- and career-ready standards.

STATE SUPPORT FOR COMMON CORE

Mr. Harris: Even though the Administration has admitted to driving the States to adopt Common Core through Race to the Top grants, many States have begun to question that decision. Initially, 46 States adopted Common Core; however, 2 States have paused their implementation of Common Core and 9 States have either withdrawn from the national tests or downgraded their participation in Common Core.

How do you account for this change in support by the States?

Mr. Duncan: Adoption of standards and assessments is and has been a State decision. We believe that support for standards, and aligned assessments, that will prepare students for college and careers, including the Common Core State Standards, is

vital and remains strong. In the case of the Common Core, it is important to note that this bipartisan effort by States, led by the National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO), to develop common standards supporting college- and career-readiness, started more than 2 years before this Administration took office. Under ESEA flexibility, which is a voluntary agreement between States and the Department, entirely separate from Race to the Top, a State may choose to meet the requirement that it have in place college- and career-ready expectations for all students by adopting standards that either have been certified by a State network of IHEs, such that students meeting the standards will not need to take remedial coursework at the postsecondary level, or are common to a significant number of States.

Furthermore, under ESEA flexibility, States had to adopt high-quality assessments, aligned with the standards they chose, but the Department did not require a particular assessment. To date, Alaska, Minnesota, Puerto Rico, Texas, and Virginia all received ESEA flexibility as a result, in part, of their commitment to implement their own individual State college- and career-ready standards and aligned high-quality assessments. Finally, the adoption of the Common Core or of either of the consortia's assessments was not a requirement of Race to the Top; instead, States that adopted common standards were awarded points toward their score.

PRESCHOOL FOR ALL

Mr. Harris: Once again the Administration has called for \$75 billion in new spending for a Federal "preschool for all" program even though more than three-quarters of the Nation's 4-year-olds are already enrolled in some form of preschool and child care, and when low-income families already have access to subsidized programs.

How do you justify this level of financial commitment by the Federal Government when the cost to the taxpayer is so high?

Mr. Duncan: The Administration's proposal is a partnership with States, to help them accelerate their investment in preschool—something that many States are already looking to do. The Preschool for All proposal is a voluntary, formula-based program that would build on existing State infrastructure and programs. We want to strengthen and build on what already exists in many States, and ensure that the services children receive are high-quality so that we will see these returns on investment down the road.

This is a voluntary program. States do not have to participate.

However, we know that investing in high-quality preschool has tremendous benefits for children and that it produces a significant return on investment for the government and taxpayers. Research has found that for every \$1 invested in high-quality preschool, taxpayers saved an average of \$7 in future costs due to reduction in remedial education costs, increased labor productivity, and reduced crime. Additionally, there are numerous studies finding that there are significant, long-term effects of high-quality

preschool, including the Perry Preschool and the Abecedarian Project, and the Chicago Longitudinal Study. An investment in Preschool for All is one of the most important investments we can make in our children's future. We also know that there is an unmet need for high-quality preschool. Only 3 in 10 children are enrolled in high-quality preschool, and the return on investment applies only to high-quality programs.

NEED FOR PRESCHOOL EDUCATION

Mr. Harris: Is there evidence of demand for this new spending?

Mr. Duncan: There is tremendous unmet need in this country for access to high-quality preschool. Parents know and want what is best for their children, but there are simply not enough affordable, high-quality slots for children to attend these programs. Nationally, nearly 60 percent of our Nation's 4.1 million 4-year-olds don't attend any publicly-funded preschool program. In almost every State, the unmet need for early learning is enormous. For example, in Pennsylvania, 6,700 children are waiting for openings in the State preschool program; in Colorado, districts report that over 8,000 eligible children cannot be served; and in Michigan, Governor Snyder reported last year that 29,000 needy preschool age children didn't have an opportunity to go to subsidized preschool.

Additionally, the demand from parents is not just for more preschool slots for 4-year-olds--it's for *high-quality* early learning opportunities from birth through age 5. That unmet need is not just in cities, but in suburbs and rural communities all across the country.

RETURN ON INVESTMENT OF PRESCHOOL EDUCATION

Mr. Harris: Evidence from existing programs, such as Head Start, raises doubts about their efficacy.

In August 2013, Vanderbilt University released an evaluation demonstrating that children who went through Tennessee's Voluntary Pre-K (TN-VPK) Program actually performed worse on cognitive tasks at the end of first grade than did the control group.

TN-VPK operates through local competitive grants and collaboration with other organizations, including Head Start providers. The program offers full-day, subsidized pre-kindergarten for four-year-olds from low-income families. Vanderbilt's study (funded in part by the U.S. Department of Education) used a randomized control design to assess two cohorts of students from the 2009–2010 and 2010–2011 school years—approximately 3,000 4-year-olds. Children admitted to the study were selected through a lottery process.

Vanderbilt researchers found that by the end of the kindergarten year, gains that had accrued to participants had diminished, and by the end of first grade, there was only one statistically significant difference between the TN-VPK group and the control group.

The Administration often states that "high quality" preschool returns seven dollars for every one dollar "invested." Can you tell me how the Administration arrives at this ratio; isn't this figure based on a nearly half-century-old preschool evaluation, the Perry Preschool Project which was conducted with a treatment group containing just five dozen highly at-risk children?

Mr. Duncan: The finding that high-quality preschool returns \$7 for every \$1 invested is from a 2009 study entitled *The Rate of Return to the High/Scope Perry Preschool Program*, by J.J. Heckman, S.H. Moon, R. Pinto, P.A. Savellyev, and A. Yanitz.

IMPLEMENTATION OF PRESCHOOL FOR ALL

Mr. Harris: Given the cost of implementing Preschool for All and the more recent evidence of the limited impact preschool may have, how do you justify this expenditure especially since according to the Government Accountability Office, the Federal Government already operates 45 programs today which are spread across multiple Federal agencies and cost taxpayers more than \$20 billion annually.

Mr. Duncan: The Government Accountability Office (GAO) found that only 12 of the 45 programs had "an explicit program purpose of providing early learning or child care services," and that just two programs—Head Start and the Child Care Development Block Grant—constitute the bulk of the Federal role in early learning. Despite some overlap in the purposes of existing programs, the GAO could not find any duplication in early learning services.

The reality is that, despite existing Federal investments, many families do not have access to the early learning programs that their children need and deserve. There is still a tremendous unmet need for high-quality preschool services. Only 3 in 10 children are enrolled in high-quality preschool programs. Greater investments are needed at the Federal, State, and local levels to ensure that all children are able to receive a high-quality start.

The collective body of evidence in support of high-quality preschool is compelling that there are significant, long-term effects of high-quality preschool. The best studies showing the lifelong effects of early childhood education are based on the Perry Preschool[1] and the Abecedarian Project[2], both of which were multiyear interventions (though the first cohort of Perry children attended for just 1 year). These randomized studies clearly show the benefits of preschool.

The Chicago Longitudinal Study followed a cohort of 989 children who attended a publicly funded early childhood program (the Chicago Child-Parent centers) for either 1 or 2 years. These children showed (relative to peers matched on age, family and neighborhood poverty, and participation in government programs) higher rates of high school completion, more years of completed education, lower rates of school dropout, lower rates of juvenile arrest, and lower rates of violent arrest.[3]

[1] Heckman, J. J., Moon, S. H., Pinto, R., Savellyev, P. A., Yavitz, A. (2009). *The rate of return to the High/Scope Perry Preschool Program*. National Bureau of Economic Research Working Paper 15471.; Schweinhart, L. J., Montie, J., Xiang, Z., Barnett, W. S., Belfield, C. R., & Nores, M. (2005). *Lifetime effects: The High/Scope Perry*

Preschool study through age 40. Monographs of the High/Scope Educational Research Foundation, 14. Ypsilanti, MI: High/Scope Educational Research Foundation.

[2] Campbell, F.A., Pungello, E. P., Burchinal, M., Kainz, K., Pan, Y.; Wasik, B.H., Barbarin, O.A., Sparling, J.J., & Ramey, C.T. (2012) Adult outcomes as a function of an early childhood educational program: An Abecedarian Project follow-up. *Developmental Psychology*, 48(4), 1033-1043.

[3] Reynolds, A. J., Temple, J. A., Robertson, D. L., & Mann, E. A. (2002). Age 21 cost-benefit analysis of the Title I Chicago Child-Parent Centers. (2002). *Educational Evaluation and Policy Analysis*, 24(4 24-267-303), 264-303.; Reynolds, A.J., Temple, J.A., Robertson, D.L., Mann, E. (2001). Long term effects of an early childhood intervention on educational achievement and juvenile arrest. *Journal of the American Medical Association*, 285 (18).; Reynolds, A. J., Temple, J. A., White, B. A. B., Ou, S., & Robertson, D. L. (2011). Age 26 cost-benefit analysis of the Child-Parent Center early education program. *Child Development*, 82(1), 379 404.

FEDERAL ROLE IN PRESCHOOL EDUCATION

Mr. Harris: Is there a compelling reason for the Federal Government instead of private providers or the States, to provide preschool? After all, according to a recent HHS report, Head Start had little to no impact on cognitive, social-emotional, health, or parenting practices of participants and no statistically measurable effects on all measures of cognitive ability, including numerous measures of reading, language, and math ability.

Mr. Duncan: Fewer than 3 in 10 4-year-olds are enrolled in high-quality preschool programs, yet we know that that participation in high-quality early learning yields significant individual and societal benefits. Children who attend high-quality preschool are more proficient in areas such as following directions, problem-solving, joining in activities, and relating to teachers and parents. Children also develop important pre-literacy and early math skills and are more likely to have richer vocabularies. High-quality preschool programs also improve children's non-cognitive skills, such as persistence and self-control, which have long-term implications for future success in school and in life.

The Preschool for All program would be a voluntary partnership with States to provide high-quality preschool services to 4-year-olds from low- and moderate-income families. The separate Preschool Development Grant program would make competitive awards to States, local educational agencies, or local governmental entities to build program infrastructure and scale-up high-quality preschool programs. Services could be implemented through a mixed-delivery system of providers including schools, licensed child care centers, private preschools, Head Start, or other community-based organizations. The Department would provide funding for high-quality preschool services, but States would have the flexibility to determine the most appropriate delivery method.

SCHOOL CHOICE

Mr. Harris: Although the DC Opportunity Scholarship Program is funded through the Financial Services Subcommittee as part of the District of Columbia budget, since you administer the program, I would appreciate hearing your reasoning as to why the Administration continues to zero out funding for this incredibly successful program, especially given the Administration's commitment to fund programs that work regardless of whether those programs are liberal or conservative. Do you agree that the program is successful?

Mr. Duncan: The previous evaluation of the DC Opportunity Scholarship Program (OSP) did not find that the OSP affected student achievement, and found statistically significant positive impacts on high school graduation only for some subgroups of students. The Administration believes that we need to focus our time and resources on reforming the public school system to benefit all students. The Administration is committed to providing scholarships through 12th-grade for students currently enrolled in the program. The Fiscal Year 2015 Budget includes funding for the evaluation of the program and grantee administration, but it does not include funding for scholarships because the grantee has a balance sufficient to continue scholarships through school year 2015-16 for students currently in the program.

SCHOOL CHOICE IN THE FISCAL YEAR 2015 BUDGET

Mr. Harris: How do you justify your lack of support for this program given its overwhelming success?

Mr. Duncan: The previous evaluation of the DC Opportunity Scholarship Program found only a limited positive impact on high school graduation rates and did not find any positive effects on student achievement. We believe it makes more sense to focus limited Federal resources on reforming the public school system to benefit all students.

INDICATORS OF RETURN ON INVESTMENT IN HIGHER EDUCATION

Mr. Harris: No economic authority believes that wages 2 or 3 years following graduation are a valid indicator of the return on investment in higher education. The President of Harvard has said a college graduate's earnings in their first job are a poor proxy for measuring the value of a college education, yet you continue to use this unsupportable metric for identifying failing programs. Why does the Department continue to ignore standard economic analysis?

Mr. Duncan: The proposed regulations are intended to address growing concerns that gainful employment programs are: (1) leaving students with unaffordable levels of student loan debt in relation to their earnings, and (2) resulting in too many students defaulting on their Federal student loans. These problems can exist both in the early years after students complete, and also in later years. While earnings may continue to increase

for several years after graduation, they must be sufficient even in the immediate years after graduation for students to manage their debt.

Our proposal attempts to strike a balance between allowing at least some time to pass so the graduates of a program have had an opportunity to find employment and increase their earnings beyond the very entry level and making an assessment at a time in the early years of repayment when we know that too many students are struggling.

However, we are still in the proposed rule stage and no decisions have been made about the final regulation. We look forward to considering all public comments, including those from the higher education community and from experts, on this and other topics as we craft the final rule.

21ST CENTURY COMMUNITY LEARNING CENTERS FUNDS AND EXTENSION OF THE SCHOOL DAY

Mr. Harris: The purpose of the 21st Century Community Learning Centers (CCLC) is to create a variety of community learning opportunities to enrich students' overall educational experience. However, the Administration proposes to allow the use of those funds to extend the school day. Is it true that the Administration is proposing the use of 21st CCLC program dollars to extend the school day for a few minutes rather than support traditional after school programming from 3:00 pm – 6:00 pm?

Mr. Duncan: Our proposal would continue to allow funds to be used for before- and after-school programs, summer enrichment programs, and summer school programs, and would additionally permit States and eligible local entities to use funds to support expanded learning time (ELT) programs and full-service community schools. This new flexibility would allow communities to determine the best strategies for providing their students and teachers the time and support they need to improve student and school performance. At the same time, under the Administration's reauthorization proposal, funds would be awarded to States and school districts through a competitive process that would help ensure that the program funds the highest quality applications with the greatest likelihood of improving student outcomes. A proposal that involved extending the school day for "a few minutes" would not meet any reasonable standard for a high-quality ELT program, and thus would be unlikely to be funded.

BENEFITS OF EXTENDED LEARNING TIME

Mr. Harris: I'm curious as to whether or not there is actual research and/or evidence that suggests that extending the school day through the use of these funds is a good idea?

Mr. Duncan: Research on school improvement suggests that a longer school day is an important element of high-performing, high poverty schools. For example, research by Roland Fryer (NBER (National Bureau of Economic Research) Working Paper 2011) and Caroline Hoxby (New York City Charter Schools Evaluation Project 2009) found

that increasing instructional hours has a strong positive association with school performance. In addition to Fryer and Hoxby's work, Julie Frazier and Frederick Morrison's (Child Development 1998) also suggests that extending the school year by 30 days can have a significant impact on student's academic scores at the beginning of the following year.

MASSACHUSETTS PILOT PROGRAM FOR EXTENDING THE SCHOOL DAY

Mr. Harris: Can you explain the less than encouraging results of the 5-year Pilot program in Massachusetts that utilized the CCLC funding to extend the school day?

Mr. Duncan: The authors of the final report on Massachusetts' Expanded Learning Time (ELT) Initiative cite the complexity of isolating Increased Learning Time (ILT) as one possible explanation for finding few significant results from the Initiative. In particular, reforms related to Race to the Top and School Improvement Grants (SIG) were affecting both ELT schools and their comparison schools during the course of the pilot. As a result, many of the comparison schools were implementing some of the same reforms as ELT schools, making it difficult to separate the impact of ELT from other initiatives. The Department is aware that merely increasing classroom time is not sufficient to improve student outcomes, but views ILT as necessary to accomplish the other elements of SIG models.

GAINFUL EMPLOYMENT

Ms. Lowey: In New York, all degree-granting colleges are held to the same standards. I know the U.S Department of Education is dedicated to providing meaningful information about colleges to its students and families. As part of the Gainful Employment regulation, has the Department considered requiring all colleges to disclose the same information that the regulation requires of for-profit colleges?

Mr. Duncan: The Higher Education Act (HEA) establishes the eligibility for some programs to qualify for Federal student aid on the basis that those programs "prepare students for gainful employment in a recognized occupation." The proposed regulations set the standards for those programs. Other programs are not required by the HEA to prepare students for gainful employment and so the Department is not regulating non-gainful employment programs as a part of this rulemaking.

However, increasing transparency in higher education is a priority for the Administration and has been advanced through efforts such as the College Scorecard, Financial Aid Shopping Sheet, Principles of Excellence for institutions that serve service members, veterans, and their families, and higher education proposals in the 2015 President's Budget, including the State Higher Education Performance Fund.

HIGH SCHOOL EQUIVALENCY AND COLLEGE ASSISTANCE MIGRANT PROGRAMS FUNDING LEVEL

Ms. Roybal-Allard: Mr. Secretary, I have a question about two important programs that I have supported for many years, the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP).

Children of farmworkers are some of the most underserved, disadvantaged, and at-risk students in the country. They often move frequently as a result of their parents' or their own employment. These frequent disruptions and other factors contribute to high dropout rates and a low rate of pursuit of higher education opportunities. Through its comprehensive services, the HEP and CAMP programs reengage students who have dropped out of school and support the dreams of students who wish to pursue higher education.

In addition, the HEP/CAMP programs have proven to be highly successful. According to your Department, in 2010-2011, 89 percent of all CAMP participants successfully completed their first year at an institution of higher education (24 credits and in good academic standing) and 74 percent of HEP students who completed their course of study earned a GED.

For several years, the HEP/CAMP programs have received level funding of \$36.6 million, which funded approximately 85 programs throughout the country. As a result of failure to replace sequestration in the fiscal year 2014 omnibus bill, the HEP/CAMP programs received a \$2 million cut, which will have a significant impact on the students served. In fiscal year 2014, there will be 5 fewer HEP/CAMP programs funded.

Given the success of this program, please explain why the Administration proposed the post-sequester funding level of \$34.6 million for the HEP/CAMP program in fiscal year 2015?

Mr. Duncan: We agree that the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) both provide important support for helping individuals from migrant populations to receive their GED credential and to complete their first year of postsecondary education. There are many good, effective programs in the Department, but in order to maintain fiscal discipline and adhere to the spending levels set in the Bipartisan Budget Act of 2013, we had to make tough choices and set priorities for spending increases among programs.

Please note that HEP and CAMP programs are not the only source of funding that can assist youths and adults from migrant farmworker and seasonal worker populations who are interested in obtaining their GED credential or in completing their first year of postsecondary education. The Administration's Fiscal Year 2015 Budget also requests \$898.3 million for Federal TRIO programs and \$597.7 million for Adult Education State grants.

CRITICAL NEED FOR INVESTMENT IN EARLY LEARNING

Ms. Roybal-Allard: Secretary Duncan, I was happy to see that the fiscal year 2015 budget request includes \$1.3 billion to launch a 10-year, \$75 billion mandatory investment in the Preschool for All program and \$500 million in discretionary funding for Preschool Development grants. Together, these programs would support State efforts to provide access to quality preschool for all low- and moderate-income 4-year-olds.

Some will question how investments in preschool differ from existing Federal investment in quality child care. Can you explain why both quality child care and preschool are such critical investments?

Mr. Duncan: High-quality child care and high-quality preschool are both critical investments. President Obama committed to an historic new investment that supports a continuum of services for children from birth through age 5. It begins with home visiting, followed by improved quality in child care, and then provides universal access to high-quality preschool for all 4-year-olds from low- and moderate-income families with incentives for States to serve additional middle-class families. This 10-year, \$75 billion Preschool for All program is the centerpiece of the President's early learning agenda.

Preschool for All and Preschool Development Grants would focus resources on providing high-quality preschool programs to low- and moderate-income 4-year-old children. The Department of Health and Human Services' child care program helps pay for care for infants and toddlers, preschoolers, as well as school-aged children in a variety of settings. Funding both programs would ensure that children from birth through kindergarten receive a continuum of high-quality care and education.

SCHOOL IMPROVEMENT GRANTS

Ms. Roybal-Allard: Mr. Secretary, one of the concerns that schools in my district have had with the current School Improvement Grants (SIG) program is that once low-performing schools improve, they lose the extra resources that helped them make such great strides.

Many of the reforms these schools have implemented need ongoing funds to ensure their progress is sustainable over time.

What are your views about allowing school districts to use a portion of their SIG funds to support their ongoing school improvement efforts and to ensure schools don't regress as a result of the funding cliff created by the abrupt loss of SIG funds?

Mr. Duncan: We recognize that local educational agencies (LEAs) may face difficulty in sustaining SIG-funded interventions after the grant period and may need additional time or resources in order to integrate reforms successfully into regular school operations. Under the Administration's proposal to reauthorize the Elementary and Secondary Education Act, LEAs would initially receive up to 3 years of SIG funding (the

maximum permitted by current authorizing statute) to implement an intervention in an eligible school and would be eligible for an additional 2 years of funding to support continued improvement if demonstrated by the school.

We note that the fiscal year 2014 consolidated appropriations act permits the establishment of a SIG award period of up to 5 years for participating LEAs, similar to the Administration's proposal.

AFRICAN AMERICAN STUDENTS - CIVIL RIGHTS DATA COLLECTION FINDINGS

Ms. Lee: There is an enormous need for a very strategic plan that will target the school to prison pipeline issue that continues to plague young black boys, and the various issues that continue to result in barriers to education and by extension, careers. So I was pleased by the President's announcement of the My Brother's Keeper Initiative and the renewed, additional attention the Administration is paying to these issues.

And I want to commend you for your tremendous work on the Civil Rights Data Collection (CRDC) survey, which the Department of Education conducted and the CBC – the Congressional Black Caucus – supported. The results of the survey are troubling, and showed:

- That despite making up only 18 percent of enrollees, African American students represented 42 percent of preschool students suspended once, and nearly half of the students suspended more than once;
- African American girls were suspended at higher rates (12 percent) than girls of any other race or ethnicity, and most boys; and
- Black boys were suspended at high rates (20 percent) than girls or boys of any other race or ethnicity.

I understand the results from the CRDC were announced after the President's Budget was released, but could you please describe some of the proposals in the budget that would:

- (1) address the disproportionate school discipline rates faced by young Black boys (and girls);
- (2) work with the Department of Justice to address the prison to pipeline culture that these discriminatory disciplinary actions lead to;
- (3) improve the overall educational achievement of Black boys, from preschool through college; and
- (4) close the achievement gap for Black and minority children?

Mr. Duncan: We agree with your assessment of the need for a comprehensive effort to identify and address the education and related needs of young boys of color, as demonstrated by the President's announcement of My Brother's Keeper and the Department of Education's key role in that initiative. And the Fiscal Year 2015 President's Budget for education includes a strong focus on programs and proposals that, if funded, could have a significant impact on improving educational opportunities and outcomes for children of color as well as all students from low-income families. For example, our \$214 million proposal for Successful, Safe, and Healthy Students includes \$50 million for a new round of School Climate Transformation Grants, a new program that we are launching in fiscal year 2014 as part of the President's Now Is the Time initiative to reduce gun violence and make schools safer, that would expand the use of multi-tiered behavioral frameworks that can help reduce disproportionate disciplinary actions against young African-American and Latino students. Addressing such disproportionate disciplinary actions is essential for eliminating the school-to-prison pipeline.

The President's Preschool for All proposal also would help close readiness gaps too often experienced by young children of color when they arrive in kindergarten and prepare them for success in elementary school and beyond. And the \$300 million Race to the Top-Opportunity proposal is explicitly targeted to expanding the use of data on resource utilization, addressing resource inequities, and improving access to effective teachers in order to close achievement gaps in high-poverty schools that often serve African-American and Latino children from low-income families.

FUNDUNG FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Ms. Lee: As you know, HBCUs provide enormous value for students and the Nation. HBCUs represent approximately 3 percent of all 2- and 4-year colleges and universities; but enroll 10 percent of all African American college students. HBCUs confer 19 percent of bachelor's degrees awarded to African Americans; and generate 27 percent of the STEM bachelor's degrees awarded to African Americans. Yet, since 2011, HBCUs have suffered over \$250 million in lost Federal support – from restrictions on Parent PLUS Loans, tighter eligibility criteria for Pell Grants, sequestration and other budget cuts.

The Title III HBCU program has been cut \$43 million, or 16 percent, since fiscal year 2010. In fiscal year 2014, only two-thirds of the sequestration cuts were restored for the Title III program and none of the sequestration cuts were restored for the HBCU Capital Financing Program. Yet, your fiscal year 2015 Budget freezes the Title III HBCU formula grants and the HBCU Capital Financing Program, which provides essential financing for infrastructure improvements at HBCUs.

HBCUs, and really all minority-serving institutions, are incredibly important for minority students to attain high quality, affordable higher education. I know that, given the ban on affirmative action in public colleges in California, HBCUs are often the only place African American students have to turn for an education.

Why does your fiscal year 2015 budget accept, and not propose to restore, these cuts?

Mr. Duncan: The President's Fiscal Year 2015 Budget Request would provide a total of \$223.8 million in discretionary funding and \$85 million in mandatory funding for the Title III Strengthening Historically Black Colleges and Universities (HBCUs) program. In addition, the President's Budget Request includes \$57.9 million for the Title III Strengthening Historically Black Graduate Institutions program. The President recognizes these institutions play a unique and vital role in providing higher education opportunity to institutions that enroll a large proportion of African American students and students from low-income backgrounds. However, due to current constraints on budgetary resources, the fiscal year 2015 request would maintain discretionary funding at the fiscal year 2014 level for the vast majority of Higher Education programs.

The 2015 request for Higher Education programs supports programs necessary to achieve the President's goal that America will once again have the highest proportion of college graduates in the world by 2020. To support this goal, the request includes a number of new grant initiatives designed to improve affordability, quality, and success in postsecondary education that HBCUs would be eligible to apply for, including: First in the World fund that would make competitive awards to institutions of higher education to encourage innovation; College Success Grants for Minority-Serving Institutions and Historically Black Colleges and Universities that would be made available through competitive grants to support implementation of sustainable strategies for reducing costs and improving outcomes for students; and the College Opportunity and Graduation Bonus that would reward colleges that successfully enroll and graduate a significant number of low- and moderate-income students on time and encourage all institutions to improve performance. HBCUs would also receive funding in States that receive grants under the Administration's proposed State Higher Education Performance Fund to support, reform, and improve the performance of their public higher education systems.

TRIO - STUDENT SUPPORT SERVICES GRANT COMPETITION

Ms. Lee: As you know, Congress created Student Support Services to "ensure" our significant Federal investment in Pell, SEOG, and other financial aid programs.

However as a result of feedback from my constituents – which includes Student Support Services programs serving nearly 1,000 undergraduates at UC-Berkeley, CSU-East Bay, Berkley City College and Laney College – I am very concerned that the Department of Education is behind schedule in its management of this grant competition and runs the risk of interrupting student services.

What is the status and timing of the upcoming TRIO Student Support Services grant competition?

Mr. Duncan: Student Support Services (SSS) is one of the Department's largest competitive grant programs -- in fiscal year 2013, the Department funded 1,027 Student

Support Services projects. The Department plans to conduct the next SSS competition in fiscal year 2015. We are on schedule to make awards in a timely manner, enabling current grantees that are successful in the 2015 competition to continue operating without a disruption in services and enabling new grantees to establish projects at the beginning of the 2015-2016 academic year.

COLLEGE OPPORTUNITY AND GRADUATION BONUS INITIATIVE

Ms. Lee: The new College Opportunity and Graduation Bonus Initiative that you propose in your budget has the potential to incentivize colleges to enroll many more Pell-eligible students. However it is already a key mission of HBCUs to focus on college access for the disadvantaged. In fact 74 percent of the student enrollment at HBCUs are Pell recipients, well above the national average of 43 percent. So I am not clear at which institutions this program would necessarily be targeted, and which campus and student populations stand to reap the most benefit.

Given their already high rate of enrollment of Pell students, how do you anticipate that HBCUs will be able to benefit from this initiative, if funded?

Mr. Duncan: The College Opportunity and Graduation Bonus program would both reward colleges that successfully enroll and graduate a significant number of Pell students on time, as well as encourage all institutions to improve their performance and student loan default rates. As a result, the program would benefit any type of institution with large shares of Pell recipients who graduate on time. Specifically, eligible institutions would receive an annual grant equal to their number of on-time Pell recipient-graduates multiplied by a tiered bonus amount per student, varying by institution type. Funds awarded will supplement and not supplant existing institutional resources.

PELL GRANT RECIPIENT POPULATION AT HBCUS

Ms. Lee: Does this proposal recognize or take into account at all those institutions that already enroll and graduate significant percentages of Pell-eligible students (not solely numbers of Pell-eligible students), the fact that many Historically Black Colleges and Universities (HBCUs) have small enrollments but high concentrations of Pell recipients? Would you support such a recommendation?

Mr. Duncan: As described in our Congressional Justification, "Eligibility would be based on Pell students comprising a significant share [emphasis added] of an institution's graduating class, as well as on graduation and student loan default rates." Therefore, eligibility would be based on shares, not numbers.

EARLY CHILDHOOD EDUCATION RETURN ON INVESTMENT

Ms. Lee: Included in the President's 2015 Budget for education was a proposal for a \$75 billion mandatory Preschool for All program, in addition to \$500 million to expand the Preschool Development Grant program, which I strongly support.

What's the return on investment of putting resources into funding high quality preschool programs?

Mr. Duncan: Research shows that for every \$1 invested in high-quality preschool, taxpayers save an average of \$7 in future costs due to reduction in remedial education costs, increased labor productivity, and reduced crime.

RACE TO THE TOP - EQUITY AND OPPORTUNITY GRANTS

Ms. Lee: I was pleased to see the incredible focus on improving the academic performance of students attending our country's poorest schools. The general goals outlined for the new \$300 million Race to the Top Equity and Opportunity grant represent an important framework for first steps.

Yet, I am deeply concerned about the competitive nature of these grants. Often, the poorest schools and school districts in America simply do not have the funds to hire a grant writer, nor the technical expertise to successfully complete a competitive grant application.

Should this proposal receive funding, what plans do you have to provide adequate technical assistance and guidance to schools interested in applying, and how will you ensure that schools receiving the funds are truly the most deserving – in terms of the number or percentages of poor students benefitting?

Mr. Duncan: The Department is committed to ensuring that all eligible entities – which, in this case, would be LEAs and States, rather than schools – have a fair opportunity to apply for grants. Staff are available to assist entities interested in the Department's programs. We also take a proactive approach for many programs, including Race to the Top. For example, in 2013, the Department conducted a series of webinars for LEAs interested in applying for Race to the Top – District grants. The Department has also established and used absolute and competitive priorities to give applicants with less capacity and those serving large proportions of disadvantaged populations a better chance at receiving funding.

We believe these efforts have met with success, and will pursue similar strategies as part of an RTT-Opportunity competition.

INCENTIVIZING IMPROVED ACADEMIC PERFORMANCE

Ms. Lee: Would you please outline the specific and primary policy changes you envision RTT-Opportunity incentivizing?

Mr. Duncan: RTT-Opportunity is aimed at improving how States and LEAs identify and close persistent educational opportunity and achievement gaps. We want to promote better integration and use of data, including data on student achievement, school resources (including financial), human capital, and student discipline. These data will

help grantees identify a range of policy changes designed to close opportunity gaps, whether in access to high-quality teachers and leaders, rigorous coursework, other student supports, or some combination of all of those things. Then, the new funds will allow grantees to implement those changes. These changes could include, for example, improving working conditions in high-need schools if data show high teacher turnover, or adjusting class assignment policies if data show that there are high-achieving students who are not getting into rigorous courses. We will not require or identify a specific approach, because we hope to see change according to specific local need. But they all must be based on a data-driven analysis of opportunity and achievement gaps.

EDUCATION FINANCE INCENTIVE GRANTS AND RTT - EQUITY AND OPPORTUNITY PROGRAMS

Ms. Lee: How do the objectives of the Race to the Top Equity and Opportunity proposal differ from the Title 1 Education Finance Incentive Grants, which support States that have taken steps to better equalize school funding?

Mr. Duncan: The Education Finance Incentive Grants (EFIG) formula is designed to reward strong and equitable investments in public education and to target funds to high poverty LEAs. While these efforts to increase fiscal equity in education are critical to the ultimate objective of our proposal, RTT-Opportunity tackles a separate and equally critical component of equity: increasing transparency around investments and achievement for all students and targeting dollars and resources based on outcomes and need. Equitable funding, which EFIG promotes, is one essential step toward closing achievement gaps; but LEAs and States also must align fiscal systems with achievement and human capital systems if we are to ensure the greatest return on our investment.

COLLEGE SUCCESS GRANTS

Ms. Lee: The Administration proposes \$75 million for College Success Grants for Minority-Serving Institutions. This support is a welcome addition to the ongoing Title III dollars.

Can you elaborate on what you have in mind for this new initiative?

Mr. Duncan: The Administration's 2015 Budget Request includes approximately \$75 million for a new College Success Grants for Minority-Serving Institutions (MSIs) initiative, a competitive grant program to provide additional support for minority-serving institutions. Minority-Serving Institutions would be able to apply individually or in consortia. Successful MSI applicants will be those that submit high-quality proposals to implement strategies likely to result in increased numbers of students, particularly Pell Grant recipients, completing postsecondary education.

Grants would support implementation of sustainable strategies, processes and tools, including through the use of technology, to reduce costs and improve outcomes for students, including one or more of the following:

- Partnering with school districts and schools to provide college recruitment, awareness, and preparation activities, to enable students to enter and complete postsecondary education.
- Establishing high quality dual-enrollment programs.
- Implementing evidence-based course redesigns of high enrollment courses to improve student outcomes and reduce costs.
- Reforming institutional need-based aid policies to enhance educational opportunities for low-income students and provide incentives for on-time completion.
- Providing comprehensive student support services, both academic and non-academic.
- Reducing the need for, and improving the success of, remedial education.

Institutions would have to establish performance goals for the duration of the grant (4 years). Continuation funding would be conditional upon successful progress toward those goals. Funding would be used to implement evidence-based approaches and systems, as well as for evaluation and continuous improvement.

MINORITY-SERVING INSTITUTIONS AND COLLEGE SUCCESS GRANTS

Ms. Lee: Can you confirm that this initiative is a top budget priority for the Department for fiscal year 2015?

Mr. Duncan: A college degree is more important now than ever, yet fewer than 1 in 10 students from low-income families complete college. That is why the Administration has outlined a comprehensive agenda to help make college more affordable and help more Americans obtain a college degree or certificate. The College Success Grants for Minority-Serving Institutions initiative, designed to support efforts to increase college completion and improve college affordability at MSIs, is a key component of this overall agenda. This agenda also includes: reforming the campus-based programs to target those institutions that enroll and graduate higher numbers of Pell-eligible students and offer an affordable and quality education such that graduates can repay their educational debt; rewarding colleges that successfully enroll and graduate a significant number of low- and moderate-income students on time and encourage all institutions to improve their performance through the new College Opportunity and Graduation bonus; and encouraging States to support, reform, and improve the

performance of their public higher education systems through the State Higher Education Performance Fund.

In addition, our 2015 Budget seeks increased funding for the First in the World Fund to support institutional innovation and the implementation of evidence-based strategies designed to improve college completion and improve affordability; strengthens academic progress requirements in the Pell Grant program in order to encourage students to complete their studies on time; and reinstates the Ability to Benefit provision for students enrolled in eligible career pathways programs, which will allow adults without a high school diploma to gain the knowledge and skills they need to secure a good job.

COLLEGE SUCCESS GRANTS IMPLEMENTATION

Ms. Lee: And, will you commit to consulting with HBCUs on how this program will be designed and implemented, if funded?

Mr. Duncan: If the Department receives funding for a College Success Grants for Minority-Serving Institutions initiative in fiscal year 2015, we would be interested in hearing, and would consider, feedback from all members of the MSI community, including from the Historically Black Colleges and Universities.

COMMUNITY SCHOOLS

Mr. Honda: I have been a vocal supporter for expanding the role of Community Schools and the wrap-around, community-based services that they provide. Last year I introduced the Supporting Community Schools Act which would allow the Community School Model to be utilized by schools in need of improvement. Community Schools are directly referenced in the For Each and Every Child report as a valuable model to improve educational equity for students.

With your leadership in expanding community schools in Chicago as CEO of Chicago Public Schools and this level of demand from the field, do you think in the future we will see more proposed investment in full-service community schools?

Mr. Duncan: Our 2015 Budget Request would provide significant investments in programs that provide supports to students and their communities, such as the 21st Century Community Learning Centers and Promise Neighborhoods programs. In addition, the Title I Grants to Local Educational Agencies program and Title I School Improvement Grants provide substantial funding that could be used to support community schools.

BENEFITS OF FULL-SERVICE COMMUNITY SCHOOLS

Mr. Honda: Can you help the appropriations committee to understand the value and impact of full-service community schools that provide wrap-around support for students?

Mr. Duncan: Community schools are intended to support students, family members, and community members in various ways in order to improve the conditions that support students' success in school. For example, they can provide students with additional support to either prepare them to enter school or to succeed in their current learning environments. In addition, the growing recognition of the value of the kind of wrap-around services provided by community schools is reflected in efforts to expand support for such services in other programs, such as Title I Grants to Local Educational Agencies and Title I School Improvement Grants.

TEACHER QUALITY STATE GRANTS

Mr. Honda: The 2015 Budget zeros out the Teacher Quality Grants and shifts the money to other forms of teacher preparation, such as ConnectEDucators. I have introduced the Educator Preparation Reform Act to reform the Teacher Quality Partnerships Grants in order to improve teacher development. Can you provide the Appropriations committee with evidence that the ConnectEDucators program would appropriately replace the previous teacher development programs and would you agree that there should be no cuts to Teacher Quality grants if these other funds are not provided?

Mr. Duncan: As in previous years, our request for Improving Teacher Quality State Grants is consistent with the Administration's Elementary and Secondary Education Act (ESEA) reauthorization proposal, which would consolidate the current authority into a new Excellent Instructional Teams initiative. The new authority would include: (1) formula-based Effective Teachers and Leaders grants to States and districts to improve the effectiveness and equitable distribution of teachers and leaders, (2) ConnectEDucators grants designed to support educators as they transition to using technology to improve learning, and (3) competitive Teacher and Leader Innovation Fund awards to States and districts to support the development and implementation of innovative teacher and leader policies. The Effective Teachers and Leaders State Grants program includes a 10-percent set-aside for building evidence on how best to recruit, prepare, and support effective teachers and school leaders and invest in efforts to enhance the teaching and leadership professions.

We believe this comprehensive proposal for addressing the needs of teachers would be a significant improvement over current law, and would maximize the impact and effectiveness of the Federal investment in teacher professional development and related support.

ARPA-ED - EDUCATIONAL TECHNOLOGY AND TOOL DEVELOPMENT

Mr. Honda: Technology can serve an important role in improving equity for all students. While it cannot fix the equity dilemma that we face it can be used as a tool to address some of our shortcomings. As you know, Advanced Research Projects Agency–Education (ARPA–ED) is a proposal that I have been working on legislatively for several

years. Can you explain to us how the proposed new ARPA-ED program would pursue developments in the use of education technology and tools?

Mr. Duncan: Similar to Defense Advanced Research Projects Agency (DARPA) and Advanced Research Projects Agency-Energy (ARPA-E), the Department envisions ARPA-ED as a small, flexible organization, staffed by leaders in the application of education technology, which would focus resources on projects that could deliver solutions with the potential to transform education. ARPA-ED's approach would be problem-centered, starting from acute needs or missing capabilities in the field. A multidisciplinary and collaborative effort will identify the most promising approaches and tools to address these problems. Building on basic research, the organization would use a range of funding mechanisms—including grants, contracts, cooperative agreements, prizes, or other transactions—to develop prototypes or models that would spur follow-on investment and R&D.

The immediate priority of a newly established ARPA-ED would be to launch a research and development agenda focused on applications of education technology with the potential to dramatically improve student outcomes. Agenda development would begin by reviewing the state of the field. ARPA-ED staff would also seek input from a broad range of industry experts, such as researchers, educators, entrepreneurs, technology leaders, and scientists.

INNOVATION THROUGH ARPA-ED

Mr. Honda: Can you provide the appropriations committee with examples of innovation in education that ARPA-ED would be able to foster?

Mr. Duncan: Initial projects might include development of 1) courses that improve the more students use them based on identifying patterns, tailoring results to learning styles, and providing a more individualized experience; 2) educational software as engaging as the most compelling videogames; or 3) platforms or tools for teachers and others to compare and evaluate digital educational materials.

CONNECTEDUCATORS PROPOSAL

Mr. Honda: In the President's 2015 Budget Request there is \$200 million for the ConnectEDucators. This proposal would be in partnership with the ConnectED program.

Can you provide information about if and how school librarians and other educational support staff may be able access these funds as well?

Mr. Duncan: The Department is continuing to determine the details of the ConnectEDucators proposal, and would value your input, but we anticipate that librarians and other educational support staff could play key roles in several aspects of the new program, including developing exemplary digital citizenship skills, increasing educator engagement with families, and expanding access to online learning resources

INNOVATIVE APPROACHES TO LITERACY

Mr. Honda: Since fiscal year 2012 Congress has appropriated between \$25-28 million for the Innovative Approaches to Literacy (IAL) program in the Department of Education. This money goes to the low-income school districts so they can maintain and updated their school library.

Can you provide the appropriations committee with information regarding the impact on the districts that have been awarded these grants?

Mr. Duncan: Innovative Approaches to Literacy (IAL) grants have helped districts' efforts to increase literacy achievement for students. Grantees are using funds for a variety of activities to improve instructional practices and to access innovative, high quality literacy resources, strategies and activities, such as providing digital literacy resources including e-books; modernizing libraries and extending library operating hours; providing students with the opportunity to create interactive vocabulary lessons; and engaging parents in literacy activities, especially parents of early readers. Projects have improved the literacy skills of students, and increased student vocabulary and comprehension skills not only in the reading classroom but in all core content areas.



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