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

WEDNESDAY, APRIL 9, 2014

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

The subcommittee met at 10:06 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Merkley, Moran, Alexander, and Johanns.

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. THOMAS E. PEREZ, SECRETARY

OPENING STATEMENT OF SENATOR TOM HARKIN

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

Today, we welcome to our subcommittee our Secretary of Labor, Secretary Tom Perez.

Again, I want to thank you, Mr. Secretary, for joining me in Iowa this past weekend. We had an interesting visit with the Job Corps Center in Ottumwa, one of the newer Job Corps Centers. It is kind of unique in how it is combined with the community college. It is one of those new setups, and it is working out really well. So I appreciate you coming out and looking at that, Mr. Secretary.

I also want to say your commitment to working Americans is reflected in the subject we will discuss today, and that is the President's budget for fiscal year 2015 for the Department of Labor (DOL).

This budget proposes critical investments that will equip Americans with the skills they need for today's jobs, something I know that you have been a great leader on.

It recommends also increased funding to ensure that working Americans are paid what they have earned and not denied benefits to which they are entitled.

As the Secretary knows, there are some tough choices to be made in our nondefense discretionary spending cap. The fiscal year 2015

spending cap is roughly the same as for the current fiscal year. It is tough. It is not draconian, but it is tough.

Again, I hope that we can continue on with that budget, rather than the budget set forth by the Budget Committee in the House, which would cut nondefense discretionary spending by $43 billion, or 9 percent, in fiscal year 2016. That would make it very, very tough on this subcommittee to do its job, and for you, I think, to do your job, if we were to have that kind of a huge cut in 1 year.

Now, I won't be in the Senate for the fiscal year 2016 appropriations process, but I think we can and must do better than to just continue to disinvest in programs critical to working families.

I might, just at the outset, say I think one of the good places to start would be to replace the sequester. I have advocated for a long time just get rid of the darn thing, get it over with, and move on.

I am also pleased to see several proposals in the department's budget request that address important priorities for working families, increases for protecting the rights of workers to take family and medical leave, ensuring that workers are paid what they have earned, enhancing oversight of the subminimum-wage program for workers with disabilities. I will have a question about that.

These are important investments that build on key accomplishments of this department and this subcommittee.

For example, the department's Wage and Hour Division has returned over $1 billion. Think about that. The Wage and Hour Division has returned over $1 billion in wages to more than 1.2 million workers who have earned it, but had not been paid. This includes over 100,000 workers who had not been paid the minimum wage for all of the hours that they had worked.

The budget also continues to invest in key employment and training activities, including increased funding to build on the success of the Reemployment and Eligibility Assessments (REAs) program. Since 2005, this subcommittee has provided more than $400 million for this activity.

Research shows that REAs can help connect unemployment insurance beneficiaries with jobs faster. The budget request would expand and enhance services to help prevent these workers from joining the ranks of the long-term unemployed. I look forward to hearing more about this. Again, this is something that has endured through both Republican and Democratic administrations.

So again, Secretary Perez, I want to thank you for your dynamic leadership of the Department of Labor and for being here today to discuss how the budget impacts American workers and what we can do to assist them in helping strengthen the middle class in America.

And with that, I will turn to Senator Moran for his opening statement.

STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Mr. Chairman, thank you.

Mr. Secretary, it was a pleasure to meet you this morning and I look forward to developing a good working relationship with you and your department. And we would welcome you to visit Kansas so that I can have stories to tell like the chairman does. Thank you very much.

We all know we have a struggling economy and unemployment remains way too high. And my concern is that the administration's budget is not prioritizing employment and training programs that put Americans back to work.

The unemployment national rate is 6.7 percent, and the fiscal year 2015 budget request provides virtually level funding for Workforce Investment Act programs, which are the cornerstone of our Nation's employment training.

There have been significant increases during this administration's time in office that fund regulatory aspects of the Department of Labor, such as OSHA (Occupational Safety and Health Administration) and mine safety, and the Wage and Hour Division.

But in looking at those numbers, there is a stark contrast to employment and training programs, which have decreased by 10 percent. And I just want to emphasize that, for getting Americans back to work, we will be looking toward employment and training programs to help accomplish that goal, and that too often it seems to me that the regulations are part of the problem in creating job opportunities for Americans.

It seems to me that really since 2010, the primary function and responsibility of Congress and the President is to put together an effort to create an environment in which more jobs are created, which Americans feel more secure and safe in their jobs and have a sense that they have an opportunity for economic mobility. And we want to make certain that the focus is on training and job creation, to begin with, and then training people to meet those jobs and their qualifications.

A couple things that have happened in the last few months that I would like to highlight, and we can visit about during the questions, is the President's executive order directing the Department of Labor to redefine and expand current overtime regulations. I am worried that this move could drastically increase Labor costs and uncertainty for employers as well as employees.

And also, it seems to me you have taken some steps to address this issue, and I am interested in hearing about it, the regulatory action that OSHA took against a Nebraska farm that has a consequence that is based upon, perhaps, a redefinition of what a farm is, as exempted under those labor laws.

Again, 5 years of high unemployment, it seems to me that we have to focus on finding ways to work with employers to create a safe environment without creating penalties and fines and uncertainty. And I look forward to hearing your thoughts about the role of those regulators in that regard.

Again, I look forward to working with you as we try to find ways to make certain that Americans feel safe and secure, have greater job opportunities, and can advance to the benefit of themselves and their families.

Thank you for your presence today.

Senator HARKIN. Thank you, Senator Moran.

It is my honor to welcome Secretary Perez to his first appearance before this subcommittee.

Secretary Perez became the 26th Secretary of Labor on July 23, 2013. Secretary Perez has experience serving in all levels of government, both at the county level, in Montgomery County nearby,

also at the State level as the Secretary of Maryland's Department of Labor, Licensing, and Regulation. He was a member of the Montgomery County Council. And then at the Federal level, Secretary Perez served as a career attorney at the Department of Justice, as well as the Deputy Assistant Attorney General for Civil Rights in the Clinton administration. And just before this appointment, he was Assistant Attorney General for Civil Rights, again, at the Department of Justice.

And again, the most important part of Secretary Perez's entire career was when he worked for this committee—no, on the HELP (Health, Education, Labor, and Pensions) Committee, not this committee. I always get confused which committee I am chairing here. On the HELP Committee.

So, Secretary Perez, thank you very much for your lifetime of devotion to public service and for your stewardship now at the Department of Labor. Your statement will be made a part of the record in its entirety, and please proceed as you so desire.

SUMMARY STATEMENT OF HON. THOMAS E. PEREZ

Secretary PEREZ. Thank you, Mr. Chairman. And thank you, Senator Moran. It has been an honor to meet you, and I look forward to sitting down with you.

Senator Alexander, it is great to see you again.

Senator Harkin, Mr. Chairman, thank you for the visit last weekend to Iowa. And much more importantly, thank you for your service.

As I said to the kids at the Job Corps Center, they have a Senator who has done great service to Iowa, has done a great service to America, and has done great service to vulnerable people around the world. And we will miss you dearly.

Your common decency is one thing that I will always take away from you, and my experience being mentored by you. So thank you for everything that you have done for so many people.

We also have a retirement. This woman to my right, Teri Bergman, has been around. This is her last approps cycle before she enters retirement; she refuses to allow me to tell you how many years of service. So I will just say she has been here awhile as well, and I want to thank Teri for her service.

Senator HARKIN. She is smiling.

Secretary PEREZ. She is smiling. I asked if she was happy or sad today, and she said probably happier than sad. But we have valued from her service. You all know that you are only as good as your staff, and we have a great staff at the Department of Labor. We are going to miss Teri.

FISCAL YEAR 2015 PRESIDENT'S BUDGET

The budget that we present today, like any other, is more than a compilation of dollar figures; it is an expression of our values. 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 so they can grow their business; ensuring nondiscrimination in the workplace; 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.

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 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 emergency room for jobseekers, 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-business woman from Detroit. Her manufacturing firm is thriving because she found roughly 700 of her workers through the local American Jobs Center. We effectively served as her human resources department. I often like to think of the Department of Labor as playing a Match.com kind of role, helping workers and employers find the right fit. And in that case, we were able to find the right fit for over 700 people who are now thriving and have punched their ticket to the middle class.

REVIEW OF THE NATION'S TRAINING PROGRAMS

During my 8 months on the job, I have spent a lot of time speaking to dozens of business leaders and CEOs (chief executive officers). And to a person, they are bullish about the future.

They also tell me that in order to grow and expand, they need a steady pipeline of skilled workers. So we need to build on our success, and we need to fix what is in need of being fixed.

And that is why the President has tasked Vice President Biden with conducting a review of our Nation's training programs. I was with the Vice President recently, in New Hampshire, as part of this initiative.

This review will be guided by the principle of job driven workforce investment. The goals of this effort are, number one, expanding employer engagement and ensure that our system is truly demand driven. If you are going to create jobs, you have to talk to the job creators. No more train and pray. We are not going to train widget makers if no one is hiring widget makers. We learn who is hiring for what by making sure we expand and sustain our employer engagement.

Number two, making it easier for people to acquire those in-demand skills necessary to punch their ticket to the middle class.

Number three, spurring innovation at all levels of the workforce system.

Number four, promoting what works in the workforce settings and fixing what isn't working.

And number five, growing and transforming registered apprenticeship programs to meet the increasing and exciting needs.

I have had the good fortune of working on these issues at the local, State, and Federal level. In my experience, these issues have never been partisan issues. They don't need to be partisan issues.

Senator Moran, I listened to what you said very carefully, and I would love to have a conversation with you, not only today, but

in the weeks and months ahead, about how we can work together in a bipartisan fashion on the critical issue of making sure people have the skills to succeed.

Our Opportunity, Growth, and Security Fund addresses many of the training concerns that you have brought to our attention here today.

COMBATING LONG-TERM UNEMPLOYMENT

One of the most vexing challenges we are confronting is the plight of the long-term unemployed. Frankly, having met so many long-term unemployed, it is probably the one issue on my plate that keeps me up at night more than anything, because they keep telling me how hard they are working, in terms of looking for work.

I had a guy in Cleveland last week who said to me, "I have got no quit in me." When someone says that to you, and looks you in the eye, you are not going to quit on them. I had another person in New Jersey who said, "I fought and licked cancer. Fighting cancer was far easier than fighting long-term unemployment."

So, I applaud the efforts in the Senate and the passage of the bipartisan bill on Monday. I hope the House follows suit.

Unemployment benefits like this, while very important, certainly, aren't the end of the story. We need to work together on ways to get people back on the job and back in the workforce.

Toward that end, I am very excited about the $158 million request for an enhanced, integrated, and expanded Reemployment and Eligibility Assessment and Reemployment Services program, which will use an evidence-based approach to help long-term unemployed workers and returning veterans find work faster.

We also request $15 million in grants to support sector strategies, helping the long-term unemployed, and other targeted populations, receive the training or other services they need for careers in these areas. These recommendations are built on a growing understanding of what works. You can be assured that the budget assumes that we are incorporating rigorous evaluations in everything we do.

We are measuring what we are doing to make sure it works. If it doesn't work, we either fix it, or we don't do it anymore.

I hope we can work together to invest in these and other programs that have a demonstrated record of effectiveness in helping people get back on their feet.

OPPORTUNITY, GROWTH, AND SECURITY INITIATIVE

Although it is not before the committee, the President's 2015 budget also sets forth an Opportunity, Growth, and Security initiative that includes a robust investment in our community colleges, one-third of which would be used to promote greater use of apprenticeships, a proven workforce development strategy that is still undervalued in the United States.

We really need to change the national mindset on apprenticeships. A 4-year college degree is the right choice for so many people, but it isn't the only way to punch your ticket to the middle class. So, we need to let young people and their parents know that there is a bright future in America for people who want to work

with their hands. Training and skills development is just one piece, an important piece, of the Labor Department's work.

PROTECTING EMPLOYEE WAGES, SAFETY, AND RETIREMENT SECURITY

As I have said before, we play a critical role in making sure that Americans get paid the wages they are due, that they are safe on the job, and that their benefits are secure.

Our budget includes an increase of almost $30 million for the Wage and Hour Division to cover the cost of hiring new investigators. These resources will be used to ensure that people who work get paid a fair wage, and that employers who play by the rules aren't undercut by those who don't. No worker should have to sacrifice their life for their livelihood.

So the 2015 budget calls for substantial investments in the ability of OSHA and its State partners to keep workers safe.

To safeguard the retirement of American workers, we also request $188 million to protect more than 141 million people covered by the benefits plans together, which hold over $7 trillion in assets.

Mr. Chairman, we have come a long way since the depths of the great recession. The private sector has now created roughly 9 million jobs over the past 49 months of consecutive private sector job growth. The economy is moving in the right direction, but there is no doubt that we need to pick up the pace.

PREPARED STATEMENT

We need to do more. We need to invest in more skills for workers so they can get back on their feet. And the Labor Department stands ready to play a critical role in creating and expanding that opportunity.

And with that opening statement, I look forward to hearing your questions and responding. Thank you very much, and thank you for your leadership.

[The statement follows:]

PREPARED STATEMENT OF HON. THOMAS E. PEREZ

Chairman Harkin, Ranking Member Moran 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 3 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 5 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 6 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 fiscal year 2015 discretionary caps to make room for priority defense and nondefense 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 OGSI includes $1.5 billion per year to support a 4-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 4-year invest-

ment will support doubling the number of high quality, registered apprenticeships in America over the next 5 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 OGSI 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 2 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 2 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 fiscal year 2014.

—*Workforce Innovation Fund*.—The 2015 budget proposes $60 million to support innovative State and regional approaches to the design and delivery of employ-

ment 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 underperforming 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 antidiscrimination 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 fiscal year 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 the 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 fiscal year 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' Com-

pensation 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 decisionmaking. 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 it 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 fiscal year 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.

Senator HARKIN. Thank you, Mr. Secretary.

We will begin with a round of 5-minute questions.

IMPROVING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES

Mr. Secretary, I would just like to lead off with something I am sure you know has been an intense interest of mine for all my adult life, and that is the employment of people with disabilities.

We worked together in fiscal year 2010 here to initiate the Disability Employment Initiative. This effort is helping to improve the physical and programmatic accessibility of our Nation's workforce system for individuals with disabilities.

More than $80 million has been awarded to 26 States under this effort, from this committee. Last year, the Department of Education awarded grants for 11 States to undertake the PROMISE (Promoting the Readiness of Minors in Supplemental Security Income) Initiative, a more than $200 million effort.

Your department has collaborated on this important initiative designed to improve education and employment outcomes for 14- to 16-year-olds with disabilities and their families.

Now, again, we are working very hard. Senator Alexander and I and others have been working for a long time on the Workforce Investment Act bill to get it reauthorized. We are still working on it. Our staffs will be working on it while we are gone for the next 2 weeks. We hope to have something together shortly on this.

Part of that will be focused on this issue of making sure that young people with disabilities get access to, or encouragement for, support for, integrated what we call competitive employment.

I would just like to get your thoughts on the Department of Labor and how can we be more helpful to realize employment outcomes for people with disabilities, and ensuring that they just aren't all in 214(c) or 14(c) subminimum wage programs.

I would just like to hear your thoughts on what the Department of Labor is looking ahead to do.

Secretary PEREZ. Sure. Well, first of all, thank you for your leadership on this issue, Senator. You take a backseat to no one on this. When I think of the ADA (Americans with Disabilities Act), I think of Tom Harkin.

I remember the 10-year anniversary when I was working in the Clinton administration. It was at the FDR Memorial, and you did your entire speech, you signed it, and I will never forget that.

I will never forget the 20th anniversary where I got to celebrate it when I was in my old job with Governor Thornburgh, because he has become a good friend and he was a champion because this

issue has always been bipartisan. And I want to commend President George Herbert Walker Bush for his leadership.

And that tradition continues.

Senator HARKIN. Just to interrupt you, I want to say, last Friday, I was at the George H.W. Bush Library in College Station, Texas, for the 25th anniversary of the Bush presidency. You might say, what were you doing there?

Secretary PEREZ. I know exactly what you were doing there.

Senator HARKIN. I was invited down by Fred McClure, who runs that, and Boyden Gray, and others. The first panel they had on Friday was on the ADA, so we had Lex Frieden, John Wodatch, Boyden Gray, and myself on the panel, talking about it. The President was there. And Barbara, the First Lady, was there. A huge crowd.

And it was just wonderful to see the old crowd together again. The Dick Thornburghs and Lou Sullivans and the people who worked so much on getting the ADA passed. It was just an uplifting day last Friday. I just wanted to throw that in.

Secretary PEREZ. We have come such a long way, not only eliminating physical barriers, but attitudinal barriers, and it is a result of the bipartisan leadership.

However the area where I think we have a long way to go is in the area of employment of people with disabilities.

Just yesterday, the Department of Justice, my old office, we had been working together with them on this, announced a statewide settlement with the State of Rhode Island. I want to commend Governor Chafee, because he was a big proponent of the settlement, which addresses the exact issue that you are talking about: People with disabilities, who can do so much more, were basically segregated into the sheltered workshops.

What I have said repeatedly, and you said it last weekend when we were together, people with disabilities don't want pity; they want opportunity. The settlement yesterday that we reached, which has gotten a lot of good coverage, is based on the notion that if you can do the work, you should be allowed that opportunity to do so. And we have given people a significant raise, because they are no longer in the subminimum wage.

WORKING WITH THE BUSINESS COMMUNITY TO EMPLOY PEOPLE WITH DISABILITIES

Other things that we are doing, in addition to cases like that, is the 503 reg. I am very proud of the work we have done there. I am very appreciative of the leadership in our OFCCP (Office of Federal Contract Compliance Programs) office.

Frankly, we have been doing a lot of outreach to the business community on this. Governor Ridge wrote an op-ed talking about how the process in the 503 reg is a model of how regulations should be produced.

We are continuing to work there, and I want to commend Walgreens, because I have visited their place in Connecticut. This is their distribution center, Senator, that distributes all the Walgreens products from Maine down to Baltimore, and I think 45 percent of their employees are people with disabilities. It is the

most productive facility that they have. Everyone is making a minimum of, I think, $14 an hour plus benefits.

It was a remarkable experience, and I again commend the CEO of Walgreens, who has made an unflagging commitment to the empowerment of people with disabilities.

Senator HARKIN. Greg Wasson. He is wonderful, the CEO of Walgreens.

My time is running out, but looking ahead, the business community has really stepped forward on this. I am having the CEO of Procter & Gamble in tomorrow at our hearing. A lot of them have visited that facility up there in Connecticut. I have been there myself.

And so the business community is really moving ahead. I just would like to say, again, I hope you and the department will join together with the business community in making sure that they have people with disabilities that they can hire when they get out of school.

There is a role for the Department of Labor to play in that, and I hope that we can join forces with these great leaders in the business community.

Secretary PEREZ. And I will be meeting with many of them at the end of the month, because we are continuing that outreach.

And Greg, I refer everybody to him, because if he can do it, you can do it. That is our mantra.

Senator HARKIN. Exactly. Thank you.

Senator Moran.

Senator MORAN. Mr. Secretary, thank you again. I want to refer first to the farming activities and OSHA regulations, and then I want to talk to you about the fiduciary rule and ERISA (Employee Retirement Income Security Act).

APPLICATION OF THE OCCUPATIONAL SAFETY AND HEALTH ACT TO FARMING OPERATIONS WITH LESS THAN 10 EMPLOYEES

From 1976 forward, Congress has included specific appropriations language prohibiting OSHA from using taxpayer funds to apply requirements under the Occupational Safety and Health Act to farming operations with less than 10 employees in our Labor-HHS bill.

In 2011, the director of OSHA's enforcement program issued a memorandum indicating that rider did not preclude OSHA from conducting enforcement activities, regardless of the type of operation performed on the farm.

You have heard from 43 Senators in an effort led by the Senator from Nebraska, Senator Johanns, regarding this policy, expressing some concerns.

And my question really is, and my understanding is: You have taken a step back, indicated that you do not want to change the intent of that rider, that the department is not intending to expand or to violate the intent of that rider since 1976. And I just would like for you to bring me up-to-date on where this issue is within the department and in OSHA.

Secretary PEREZ. Sure. Yes, sir.

We have removed the memo, that is the 2011 memo, which was the source of confusion. We take these riders very, very seriously.

We have instructed the team at OSHA that when you are in a circumstance where you discover that it is a family farm under 10 employees, that is the end of statement, and case closed.

Senator MORAN. I appreciate that answer.

REWRITING THE RULE DEFINING FIDUCIARY UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT

Let me then turn to the fiduciary rule. This goes back to a proposed rule in 2010. The Department of Labor proposed regulations regarding the definition of a fiduciary, which is regulated under ERISA.

According to the department, the intent of the proposed rule was to define more broadly the circumstances under which a person or entity is considered a fiduciary when giving investment advice to an employee benefit plan or the plan's participants.

There was significant bipartisan opposition concerns raised with expanding the definition of fiduciary. And again, a rider was included in the Labor-H appropriation bill. That rider prohibited the department from moving forward with its proposed rule.

And my questions here are, because of that rider—I assume you would say the same thing; you take those riders seriously; you can't go forward with that rule—but does the department intend to propose a rewrite of the rule?

Secretary PEREZ. The original proposed rule was withdrawn, and the process has been slowed down at my direction significantly, because we wanted to take a step back, listen, and learn from everyone.

The issue that we are trying to address, Senator, is the following: The most important two financial decisions that people make in their lives are the decision to buy a home, and now with the transformation from defined benefit plans to 401(k) and others, the decision of how to invest your retirement nest egg.

In both contexts, we want to make sure that people make informed decisions and that the person giving you that advice is working in your best interest. And so that is the needle that we are trying to thread. That is the goal that we are trying to achieve.

The reason that we slowed this process down is that I want to make sure that we hear from everybody. We have been engaged in a significant amount of outreach, and I have met with a number of Senators on both sides of the aisle, and a number of Members of Congress on both sides of the aisle. We are going to continue to do that, because I am learning a lot.

As I mentioned before, when Senator Ridge wrote about the work that we did, and the process that we undertook in the section 503 reg, that is the process that we want to undertake in everything we do. I am a big believer that you get the best results when you build a big table and make sure that everyone's voice is heard.

Senator MORAN. I appreciate that.

How would you describe the status of that process now? You are taking input. Is there a draft of a rule in the works?

Secretary PEREZ. We continue to take input, and again, I have had a number of meetings with folks in Congress, et cetera, and we are looking carefully at the best way to address this issue.

One thing I would say to you, or ask of you, really, is, if you have a constituent that contacts you and says, "I have been trying to talk to DOL, and I have been having trouble," I hope you will let me know, because I want to make sure that we hear every voice.

Senator MORAN. Let me ask this, I think for a second time, but maybe I wasn't clear the first time: Is there a rule that is being written now, or are you only in the stage of soliciting information about the possibility of a rule? Do you plan on writing a rule?

Secretary PEREZ. Well, we are taking in all the information right now, because I want to hear from people in terms of what their perspectives are, what their thoughts are. The rider language allowed for a re-proposal, as I read it.

This is different from the farm rule, which I interpret as pretty clear in terms of what you can and can't do. I think this is equally clear.

That is what we are doing right now, trying to listen and learn.

Senator MORAN. No rule is being written at the moment?

Secretary PEREZ. Well, again, we are taking in information right now, so that we can figure out what the best course of action is, and that is exactly where we are in the process.

Again, we are also consulting with the SEC (Securities and Exchange Commission), because one of the sets of feedback I heard, Senator, was that the SEC has equities in this. I agree. The SEC has equities, and as recently as a week ago, I had a conversation with Chair Mary Jo White, and we continue to talk on a regular basis.

We will continue to do that. I have read all the letters of concern. I have had numerous meetings on this. I probably have spent as much time on this as just about any issue, because I appreciate the stakes.

Whenever you do a rulemaking, you have to be concerned with what I call the doctrine of unintended consequences. You are trying to solve a problem. In the course of solving a problem, you don't want to create new problems.

Senator MORAN. I almost appreciate your entire answer, and particularly appreciate the part about unintended consequences.

I think we use that excuse way too often in Congress, in the administration. "Well, that is an unintended consequence." "Well, our job is to determine what the consequences——"

Secretary PEREZ. Anticipate them.

Senator MORAN. Correct.

Secretary PEREZ. Absolutely. I couldn't agree more.

Senator MORAN. So I appreciate your answer. I know that working with the SEC is important. They had some criticism of the proposed rule in the first place.

Mr. Chairman, thank you very much.

Secretary PEREZ. Thank you, Senator.

Senator HARKIN. Thank you, Senator.

I will go to Senator Alexander, and then I will go to Senator Merkley, and then Senator Johanns.

Senator ALEXANDER. Welcome, Mr. Secretary.

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

Senator ALEXANDER. Good to see you again.

I want to use my 5 minutes to talk just a little bit more about the fiduciary rule and some about what is going on with the overtime letter from the President.

Secretary PEREZ. Sure.

Senator ALEXANDER. On the fiduciary rule, this seems to me to be the case, you talked about you have a background in States. And my experience is, with all respect, that States have a way of being more pragmatic. Sometimes up here, we are more ideological in Washington. And your experience in the State might be well-served as you try to deal with this fiduciary rule.

Without relitigating an old issue, one of the unintended consequences we may have learned from the Affordable Care Act is that even though it sounds like a good idea to require people to buy more benefits with a health insurance policy, they end up costing more and get outside their budget.

STRATEGIES FOR REWRITING THE DEFINITION OF A FIDUCIARY

And in thinking about the fiduciary rule and the way you work on this, I think about the difference between the Government as an enabler and the Government as a mandater.

I mean, we have maybe 75 million households who get investment advice from somebody. And what we are really talking about is the difference between the conversation they might have with an investment adviser and the conversation they might have with a fiduciary, someone who has a duty—a legal duty—to them to give them a certain amount of responsibility.

Now all these people can have a fiduciary responsibility, if they want to pay for it. I mean, it is available, if they want to pay for it. But many don't want that much advice. Or they don't need that kind of fiduciary advice, and they can't afford that kind.

So it would seem to me that one of the strategies for dealing with this might be to let people know that a higher level of advice is available to them, if they want it and if they want to pay for it, but not to suddenly turn just your everyday investment advice conversation into one that is fraught with all the legal responsibilities of the fiduciary duty, which is available to anybody who wants to pay for it, and who can afford to pay for.

Is that a promising strategy?

Secretary PEREZ. Senator, I very much agree with what you said at the outset, when you said that working at the State level sometimes is a useful set of experiences. What was useful about my experience as the Labor Secretary in Maryland is I was the Governor's point person on the foreclosure crisis.

Working together with all the stakeholders, we enacted a series of forward-leaning reforms, all of which had virtually unanimous support in the State Senate and the State House and the support of the industry. The way we got there was: We built a big table.

Points like the point you are making, I spent a lot of time with mortgage brokers, because there were a lot of concerns raised about whether brokers were providing information to potential lenders that was in that lenders' self-interest, or if they were trying to, frankly, line the brokers' pockets.

We had a lot of open and frank conversations about this. We were able to thread the needle in a way that had the support of

the brokers at the end, the support of the lenders, the support of the consumer groups.

That is the process that we are undertaking here, listening to your points——

Senator ALEXANDER. I have about 30 seconds to ask——

Secretary PEREZ. No, no. So your point is very well-taken, and those are examples of the types of things that we need to consider moving forward.

Senator ALEXANDER. I would encourage that. We have some big ideological differences on this committee, but we also get a lot done, sometimes unanimously, because we go through that process.

Secretary PEREZ. I agree.

UPDATING REGULATIONS ON OVERTIME

Senator ALEXANDER. Now, what is going on here with the overtime? Normally, under the law, if you are going to change overtime regulations, which affect a maximum of 130 million—you know, everybody, working Americans.

The law says you are supposed to come out once in the spring and once in the fall with these big regulatory changes. And you typically, I am paraphrasing here, but basically, you summarize what you are about to do, and you often indicate a schedule of when you are going to do it. And it lets people all over the country know what you are going to do.

But here came a memo from the President that was outside the law that was basically making it look like it came from his State of the Union Address, where he said, if Congress won't do it, I am going to do it anyway.

There is a law here that says if you are going to affect overtime rules, there is a way to do it. Why aren't you doing it that way?

Secretary PEREZ. Well, we are. In fact, it is my understanding that the day the President announced this, we contacted your staff and offered to brief them.

Senator ALEXANDER. Well, that has nothing to do with a law that says twice a year these kinds of regulations are supposed to be included in a document that is public to everybody, once in the spring and once in the fall.

Shouldn't you get this back on that kind of track?

Secretary PEREZ. Well, Senator, we are moving forward with the overtime rule, and we are doing so, and will continue to do so, in a way that is very consistent with how we did 503, and with how we are doing the other issue that you asked about, in terms of the conflict of interest.

We have a long way to go. I have spoken to a lot of business leaders. I have spoken to other informed stakeholders, because I want to make sure that we get it right.

We received your letter last night asking about this. We, certainly, intend to respond to you in short order. I read that letter at roughly 8 o'clock or so last night, and I will make sure that we respond to all your questions on the overtime rule.

Senator ALEXANDER. But what about the Regulatory Flexibility Act. Shouldn't you be doing this within the terms of the Regulatory Flexibility Act, which is a law?

Secretary PEREZ. Well, we intend to have, and will continue to make sure that we are compliant with all of the regulatory——

Senator ALEXANDER. It is a yes or no, isn't it? Shouldn't you only be doing that within the terms of the law and not freewheeling this?

Secretary PEREZ. Well, I wouldn't describe anything that we are doing as freewheeling, sir. Again, there is a reason why we offered to brief you the day that we announced it, because we wanted to go on a bipartisan basis——

Senator ALEXANDER. It does not say in the law, "Go brief Senator Alexander."

Secretary PEREZ [continuing]. And we went above and beyond——

Senator ALEXANDER. This is a law. Do this according to the terms of this act. And so far as I know, you haven't done it. If you are doing it, I would like to know it.

Secretary PEREZ. Well, sir, we received your letter last night, and we will respond as soon as possible to your letter.

I am confident that this process is going to mirror the processes that we undertake in all of our regulatory work.

Senator ALEXANDER. Thank you.

Senator HARKIN. Thank you.

Senator Merkley.

Oh, I am just told we have a vote at 11 a.m. So Senator Merkley and then Senator Johanns.

Senator Merkley.

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

And thank you, Mr. Secretary.

Secretary PEREZ. Good morning, Senator.

PROHIBITING WORKPLACE DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY

Senator MERKLEY. Last month, I joined more than 200 Members in the House and Senate to send a letter to President Obama renewing our request that the President issue an Executive order banning contractors from receiving Federal Government contracts unless they have a policy of prohibiting discrimination on the basis of sexual orientation or gender identity.

According to various reports, your department has completed its preparatory work, and that decisionmaking now rests with the White House.

Understanding that the department would play a critical role in implementing any Executive order, are there any additional actions the department is taking to prepare or that it could take to prepare for the possibility of such an order?

Secretary PEREZ. I recall the letter. I read the letter. I believe we actually responded to the letter, if my memory serves me, or we are in the process of responding.

I appreciate your longstanding leadership not only on ENDA (Employment Non-Discrimination Act), but on the whole issue of nondiscrimination.

We are working very hard on this issue. I worked very hard on this issue at the Department of Justice (DOJ). The first hearing I

had after I was confirmed to DOJ was on ENDA, the bill that you introduced, and was one of the original cosponsors of.

We are going to continue those efforts, because I want to make sure that everybody gets judged by the content of their character and the quality of the work that they do and no irrelevant factors. This matter continues to be a matter of significant importance to the administration, to me, and to the Department or Labor.

Senator MERKLEY. Thank you. I appreciate that.

And I will just use this occasion to continue my urging that—I was very pleased that the Senate, on a bipartisan, 2-to-1 basis, said it was time to end discrimination in the workplace.

It doesn't appear that bill is going to get a vote in the House. I wish there would be a vote. There should be a vote on something as key to our Constitution as equality and opportunity.

But in the absence of such action, I want to continue my encouragement for the President to consider issuing an Executive order in this regard.

IMPLEMENTING REASONABLE BREAK TIME FOR NURSING MOTHERS PROVISION OF AFFORDABLE CARE ACT

Let me turn to a second issue. The Affordable Care Act included a section called Reasonable Break Time for Nursing Mothers. It is a provision I took from work that I have done in Oregon State, that women going back to work who have just had babies have the privacy and flexibility and break time to express breast milk, which is not only wonderful for the health of the baby but is also wonderful for the health of the mother and has been widely embraced in Oregon.

We have a clause that allows a company to exempt itself, and not a single company has exempted itself. They have all found ways to make this work.

So it has been implemented at the national level through your department, and I just want to check in to see if appropriate resources for educating companies, assisting companies to find a way to make sure that this bill could work, are occurring, and whether you have any insights in the implementation.

Secretary PEREZ. Well, again, thank you for your leadership on this. This is one of those really important issues that confront working mothers.

I recall, when I was at DOJ, we took steps prior to passage of the Affordable Care Act to address these issues, because it was the right thing to do, and it was the smart thing to do.

We continue to take our responsibility in this regard very seriously.

I would say that our experience has been identical to how you describe your experience in Oregon, Senator, which is that technical assistance and education have been very, very successful. Employers recognize that this is, again, the right thing to do, the smart thing to do, and they are doing it.

Senator MERKLEY. Thank you. And if there are challenges that arise, I, certainly, would like to hear about them, as we think about how to expand this, not just from the current law, which is for wage-earning workers, but we like to expand it to cover salaried workers as well.

And I won't ask you now, but if you have any thoughts on challenges on such an expansion, it would be appreciated.

Secretary PEREZ. Sure.

CONVERTING THE EXPERIMENTAL CONSUMER PRICE INDEX FOR THE ELDERLY INTO AN OFFICIAL PUBLISHED INDEX

Senator MERKLEY. With the balance of my time, I wanted to ask about the Consumer Price Index (CPI)-E (for the elderly). I would like to see the Department of Labor convert the experimental CPI–E into a fully official published index.

The CPI–W (Urban Wage Earners and Clerical Workers) only represents about 32 percent of the U.S. population. It doesn't reflect the inflation experience of older Americans. And according to the Congressional Research Service, the cost of living under CPI–W rose at an average rate of 2.9 percent over that period of time, while the cost of living for seniors rose at 3.2 percent, or roughly, if you will, a 0.3 percent difference.

Over time, that makes a difference, a significant difference, as we think about having accurate indexes for areas that it might be applied, such as in Social Security.

So I just would like to express this interest in seeing the department pursue that conversion from the experimental to the officially published index, and whether you have any insights or comments on that.

Secretary PEREZ. Sure. Well, this is not the first time I have heard this, and it is an important issue. I appreciate you bringing it to our attention. I meet regularly with the head of BLS (U.S. Bureau of Labor Statistics) to have this discussion.

One of the challenges that we are working through is that there are some design issues, cost issues. However, I also recognize the point that you are making, and I look forward to talking to you and really getting your insight as we move forward to figure out what the best course of action is in this area.

Senator MERKLEY. Thank you very much.

Senator HARKIN. Senator Johanns.

Senator JOHANNS. Thank you, Mr. Chairman.

Secretary PEREZ. Good morning, Senator.

Senator JOHANNS. Good to see you, Mr. Secretary.

Secretary PEREZ. Good to see you, Senator.

FAMILY FARM EXEMPTION UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT

Senator JOHANNS. Let me, if I might, just ask a question or two to follow-up on the questions that Senator Moran asked you about the family farm exemption.

I thank the Senator from Kansas for bringing this up, because this is a very important issue, and not just in Nebraska, but across the country.

As Senator Moran pointed out, for about 35 years, Congress has looked at this area and put language in that basically said, if you employ more than 10 outside employees, then you are subject to OSHA. If not, then you are not.

And lo and behold, that world changed, and I appreciate the fact that the memorandum has now been pulled back, and I know the enforcement actions have been pulled back.

Let me ask you this, just so I understand your testimony relative to what you were asked by Senator Moran. You said that if there are fewer than 10 outside employees, the inquiry is over. Is that the current position of the Department of Labor?

So you are working with a farm, fewer than 10 outside employees, you take no further action?

Secretary PEREZ. If it is a farming operation with fewer than 10 people, that is my understanding of what the rider was intended to get at, and that is the end of the story.

Senator JOHANNS. Okay. And so long as that language is in the rider, that will continue to be the position of the Department of Labor?

Secretary PEREZ. Yes, sir.

Senator JOHANNS. Okay. Do you have any current plans, as you know, I would say, you were attempting or your department was attempting to get around this language by classifying certain pieces of the farming operation as not a part of the farming operation.

In this case, it would be grain storage. Theoretically, it could be a whole host of things.

Do you have any current plans that your goal would be to separate certain operations that I would regard as farming operations from that definition and thereby go in and regulate?

Secretary PEREZ. We don't have current plans. What I have learned from my experience getting up to speed on this is that sometimes answering the question of whether you are a family farm is easier said than done.

I spend a lot of time in rural Wisconsin. That is where my in-laws live, and we go up there two or three times a year. It is all farm country. And what we have seen in some cases is that when we go in, there was one facility that had a tomato canning operation on the side. There were others where their grain silos were actually servicing a number of other farms in the area. There was another case where when they were asked to define their operation, they used a code that was above and beyond what the definition of a family farm was.

One of the things I have learned from this is that it is easier said than done. What we are trying to do, and make sure we do a better job of, is determine, at the outset, what is the operation that we are seeking to go into, and get that answer. If the answer is as we just discussed, then that is the end of the issue.

The thing that was motivating us in this case, and I think we all have a shared interest, is making sure that we prevent deaths in grain silos; that was the issue that was out there. We have done a lot of work, very collaboratively, with farmers and associations to prevent these very tragic deaths that were the impetus for some of this work.

Senator JOHANNS. Yes, and we, certainly, share that. I grew up on a farm myself. I have been around grain bins, power takeoff shafts, all of those things.

Secretary PEREZ. Right.

Senator JOHANNS. But having said that, here is what I am getting to: When it comes to family farms, haven't we, as Congress with this rider language, basically told you what we believe the situation is in terms of how to define a family farm? We have said, if you have more than 10 outside employees, guess what, you are no longer a family operation. According to our view of the world, you are something else, and subject to OSHA jurisdiction. If you are under 10, on the other hand, you are a family farming operation.

Would you agree with that?

Secretary PEREZ. I would agree with that. I would also note that you instructed us to consult with USDA (U.S. Department of Agriculture) on this issue and make sure that we have guidance that is consistent with your directive. I can tell you that we are in the middle of doing that as well, and that we have begun that process, pursuant to your request. That has been very, very helpful, so that we can make sure that we understand the situations that you have clearly defined, that the Department of Labor, OSHA should not be in, and that we can ensure we are in compliance.

Senator JOHANNS. Right. Here is my thought on that, and I am out of time, so I will wrap up here very quickly, no one wants these deaths to occur. They are just hugely tragic. Oftentimes, they involve young people, and we don't want that to happen.

I think if you would work with us, USDA, the Farm Bureau, FFA (Future Farmers of America), 4–H, on and on, about a program that says, look, here are some practices we would like to talk about in terms of protecting yourself, and kind of a self-education, education awareness program.

I was in FFA growing up, 4–H, both. And I just think they would embrace it. I think they would say to you, yes, that makes so much sense to us. And they probably have programs like that going on anyway.

That is where I really want you to focus your attention, because I think we have defined family farms as something less than 10 employees, outside employees.

So I will continue to encourage you the way I did in my letter. Reach out, work with us. That is really what we are trying to achieve here, a safer environment for that kind of process.

Secretary PEREZ. I look forward to working with you on that, because we have learned a lot and we have actually had some success working collaboratively. I would like to go to school on your experience, so that we can really fulfill our shared interest in preventing tragic deaths.

Senator JOHANNS. Great. Thank you.

Secretary PEREZ. Thank you.

FARM SAFETY FOR JUST KIDS ORGANIZATION

Senator HARKIN. If I might, I just want to add to that, I would encourage you, Mr. Secretary, and your staff, to reach out to an organization called Farm Safety for Just Kids. It was started by Marilyn Adams about, oh, about 30 years ago, I guess. Her son lost his life in a grain silo accident.

So she started an organization to start teaching farmers about farm safety. A lot of kids work on farms. And kids, nothing can

hurt you when you are a kid, you know. They take all kinds of chances.

They have built up a great deal of expertise over the years. It has become a national organization. I don't know if their headquarters are still in Iowa or not, or where it is.

Senator JOHANNS. I think in Iowa.

Senator HARKIN. It is still there? They have done great work in teaching farmers and farm families how to set up systems so that kids don't get hurt, young people don't get hurt.

I will just say, as long as you are pursuing this thing, to check with that group. They really have developed a lot of expertise.

Secretary PEREZ. I will make sure that we do that.

Senator JOHANNS. Mr. Chairman, I am so glad you mentioned that, because she is outstanding. I met with her when I was Secretary of Agriculture.

Senator HARKIN. Is that so?

Senator JOHANNS. This came about because of a very tragic event, but she has taken that as kind of a catalyst to really engage here. She has laid a tremendous foundation.

I wasn't thinking about that when I was talking about whom to partner with here, but that would be perfect.

Senator HARKIN. Yes. I just found out she retired, so now the organization has taken on different people. It was taken over and continues, so she built quite an organization.

But I just say, have your people look at that, because they have a lot of good background information on this.

Secretary PEREZ. We have been doing a lot, and we can learn a lot more from all of you. So we look forward to doing that.

Senator HARKIN. I know we are going to be called for a vote pretty soon. I just have one short question, and that is on employee misclassification.

Secretary PEREZ. Yes.

IDENTIFYING AND COMBATING EMPLOYEE MISCLASSIFICATION

Senator HARKIN. You mentioned that the budget provides for $14 million to identify and combat misclassification, and you say this includes $10 million in continued grants to States to recover unpaid unemployment taxes at $3.8 million of the Wage and Hour Division increase for personnel to investigate violations.

Is the total amount that you are putting in for employee misclassification $14 million? Or is it $27 million or $28 million? I am trying to figure out——

Secretary PEREZ. $14 million, sir.

Senator HARKIN. $14 million. Again, I just want to encourage you, I hear so much about employee misclassification, both as the chairman of the authorizing committee, but as a Senator from Iowa, too. I just hear a lot about this, about misclassification, and how workers are really, well, I will say it frankly, being cheated out of what they should be paid, because of misclassification. I encourage you to really pursue this.

Secretary PEREZ. Thank you. I hear this as much as anything from business owners. There was a guy, he develops residential housing, and he tells me, "Tom, I am playing by the rules. I am paying my employees. I pay their workers comp. I do all that. The

guy down the road who is competing with me is paying everyone under the table. I keep getting undercut. I can't do this, and I don't want to cheat."

There are three victims: There is the worker, himself or herself; there are the business owners who are playing by the rules; and there is the tax collector.

And I saw this in Maryland. We called it workplace fraud in Maryland.

Senator HARKIN. That is what it is.

Secretary PEREZ. Because "misclassification" feels like a clerical error. You have to call it what it is.

We are doing partnerships with States. We have MOUs (memoranda of understanding) with States across this country, and it is not a red state/blue state thing. We have partnerships with Utah. We have partnerships with other States, because it is a real issue across this country.

Senator HARKIN. A big issue.

That is all I have.

Senator MORAN. Do I have time for one more?

Senator HARKIN. Sure you do.

IMPROVING EMPLOYMENT OPPORTUNITIES FOR VETERANS

Senator MORAN. Mr. Secretary, what do we need to do to significantly improve the opportunities for veterans' employment? You have a number of tools. The Department of Veterans Affairs (VA) works on these issues. But we continue to have a significant challenge in this country with our veterans returning, with our military men and women returning and becoming veterans and unable to find employment.

Secretary PEREZ. This is one of those things that I spend as much time on as any, Senator. There are a lot of tools in the toolbox.

One of the tools, as it relates to the fiscal year budget request for this coming year, is the enhanced RES (Reemployment Services)/REA, that is targeted at two populations. It will enable us to target two populations, veterans coming out of service and the long-term unemployed, so that we can help them get the training they need.

One other thing we are doing, and I know you have to run to a vote, but we are working very closely with the VA and DOD (Department of Defense) to get people further upstream. With the mandatory discharge, as the drawdown in Afghanistan picks up, what we are trying to do now is get them 6 months before they are actually out of the service, and then figure out, what are your goals? We don't want to get them for the first time when they are doing transition assistance a week before they are leaving. We want to get them 6 months upstream, so that we can help connect them perhaps to the apprenticeship program, so when they leave, they are ready to work.

We are doing a lot of work upstream. We are doing a lot more work through the First Lady's office with the business community. We just had an event with the construction industry, and we have a lot of individual employers who stepped up.

However, in the construction industry, what they did was they said that we are going to embed veteran hiring into the DNA of all of what we do, not just the ABC Company, but every employer.

You have Helmets to Hardhats that the labor unions and others have put forth.

I am really heartened by what I see in terms of the level of interest. The demand is growing and growing, and that is why this has been an all-hands-on-deck enterprise for the administration.

I welcome any ideas you have about how we can do it better, because nobody has a monopoly on good ideas in this.

Senator MORAN. Mr. Secretary, let me suggest to you that a concept that I have a lot of interest in is entrepreneurship, the ability to start a business. We have worked with the Department of Veterans Affairs in trying to have them focus some of the benefits that a veteran is entitled to for education, for training, on the ability to create the capital necessary to start a business.

And if there are ways that we can work with the Department of Labor to create an environment in which a startup, a new business origination, it very well may be a veteran's choice, but may not have the tools to accomplish that.

So while I ask about employment, and that would lend itself to thinking about training and education, in addition to that, if you put into your broad thinking, are there ways to help a veteran who has an entrepreneurial idea pursue the American dream in their garage or their barn, take an idea to market? We want to explore those opportunities with the Department of Labor as well.

Secretary PEREZ. I love it, and I would love to brainstorm with you.

Senator MORAN. Thanks very much.

Secretary PEREZ. Great. Thank you.

Senator MORAN. Mr. Chairman, thank you.

Senator HARKIN. Thank you.

Thank you, Mr. Secretary.

CLOSING STATEMENTS

First, before you all leave, I also want to recognize Terri Bergman for all your years of public service, both at DOL, but also on the Hill when you were here and working with us and when you were over on the House side. You have been, I shouldn't say, just a familiar face; you have been an integral part of a lot of our appropriations processes for a long, long time.

I understand you are retiring and relocating to Cape Cod. Let me know how it is up there. I am retiring next year, myself.

But again, you have been a tremendous asset as the Deputy Assistant Secretary on our Congressional and Governmental Affairs. And I know I can speak on behalf of all of our staff in saying we are going to miss you. You have been a great asset to the smooth functioning of this process, and we thank you for your years of public service. We wish you well in your retirement.

ADDITIONAL COMMITTEE QUESTIONS

Now, Mr. Secretary, thank you again for being here, for your forthrightness and your openness in responding to our questions.

The record will remain open for additional statements and questions for 10 days.

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

QUESTIONS SUBMITTED BY SENATOR TOM HARKIN

BUREAU OF INTERNATIONAL LABOR AFFAIRS EFFORTS TO COMBAT CHILD LABOR ABUSES ABROAD

Question. Mr. Secretary, as you know, I have been a strong supporter of the Bureau of International Labor Affairs' (ILAB) efforts to protect labor rights and combat the worst forms of child labor around the world. In fact, you and I were together last week with the Ivorian and Ghanaian government representatives assessing some of the progress with have made in reducing the worst forms of child labor in the cocoa sector as a result of some technical assistance programs funded through ILAB. I want to give you an opportunity to comment on an element of ILAB's work that is particularly close to my heart: ILAB's technical assistance projects. Would you please share some of the ways that these projects are making a difference on the ground and, discuss some of the safeguards in place to ensure that project funds are well spent on this critical mission?

Answer. ILAB's technical assistance funding is an essential element of its successful efforts to advance worker rights and livelihoods throughout the world. Since 1995, DOL has funded 278 projects in 94 countries to address child labor. Currently, DOL is funding 37 active projects in 64 countries, worth over $240 million. These projects use an integrated approach that helps remove and prevent children from exploitative work, while offering them schooling alternatives and livelihood support for their families, so that they can overcome reliance on the labor of their children to meet basic needs. To date, DOL-funded child labor reduction projects have rescued approximately 1.7 million children from exploitative child labor. DOL projects also play a major role in building the capacity of governments and other key actors to combat child labor at the national, district, and community levels. In addition, DOL projects train labor inspectors and law enforcement officials to improve child labor law enforcement.

In addition, ILAB funds technical assistance projects that address broader worker rights issues, particularly in those countries with which the United States has free trade agreements and trade preference programs. These projects promote the effective enforcement of labor laws by strengthening labor inspections systems, raising awareness and capacity of employers to comply with labor law and of workers to exercise and claim their rights, improving occupational safety and health, promoting productive labor-management relations, and strengthening social safety nets for vulnerable workers.

We consider oversight of technical assistance funding to be one of ILAB's most important responsibilities. We use a variety of tools to ensure proper oversight. Projects funded by DOL are required to submit regular technical and financial progress reports. DOL uses these reports to track the grantees' use of funds and implementation of agreed upon project activities. DOL also contracts with independent, external evaluators and auditors, who are charged with assessing project performance and compliance with required regulations. Through the use of this combination of oversight tools, DOL seeks to ensure proper use of USG funds and to maximize project benefits for workers, children, and families in target communities.

WAGE AND HOUR DIVISION PLANS TO PREVENT ABUSES OF WORKERS WITH DISABILITIES

Question. Mr. Secretary, the Department plays a critical role in promoting ramps and ladders of opportunity for all Americans and in protecting their rights in the workplace. That's why I know you share my outrage about the abuse of workers with disabilities that occurred in Atalissa, Iowa. Please tell me what your specific plans are for making sure we never have another situation like that at Henry's Turkey Service?

Answer. Since 2010, the Department has initiated a full review of its procedures for enforcement and administration of section 14(c). A number of changes have already been made. For example, Henry's Turkey Service allowed their certificate authorizing the payment of subminimum wages pursuant to section 14(c) to lapse and indicated they would choose to pay the full minimum wage equivalent to all workers, but we later learned that they did not do so. The Department's strategic enforcement protocols for 14(c) now includes a sampling of lapsed certificate holders

to ensure these former certificate holders are not continuing to pay subminimum wages in violation of the law. In addition, the Department has initiated action to revoke certificates in certain circumstances, and is currently developing standardized protocols for dissemination to all staff on revocation of certificates for egregious or willful violations of the law. With an increase in FTE for the enforcement of section 14(c), the Department will be able to increase its directed enforcement activity and further develop strategies to address the most egregious violators.

The Department also partners with other Federal agencies such as the Department of Justice, the Department of Education, and the Department of Health and Human Services to ensure that employers with 14(c) certificates provide adequate protections to individuals with disabilities. These collaborations help to ensure that all protections are available to workers with disabilities as a part of a comprehensive and vigorous enforcement program.

In addition to its enforcement efforts, the Department is committed to ensuring that all our stakeholders—employers, community rehabilitation programs, advocates, and workers—fully understand the rules that apply to employing workers with disabilities at subminimum wage rates. We have increased our outreach to stakeholders, conducting at least 10-day-long seminars on section 14(c) each year since 2012. These seminars are free and open to all interested parties. Finally, the Department has recently added a senior advisor to enforcement agency staff to help promote and connect the work we do in section 14(c) with national, regional, and local organizations who work with people with disabilities. This key staff member will help ensure the agency has an open line of communication for workers and their advocates.

REEMPLOYMENT ELIGIBILITY ASSESSMENTS

Question. Mr. Secretary, since 2005, this subcommittee has provided more than $400 million to support Reemployment and Eligibility Assessments (REAs). As you know, the President's budget request includes $158 million, an increase of $78 million, to expand the existing REA program to include reemployment services. This enhanced model would provide personalized assistance to unemployed workers and target services to UI claimants most likely to exhaust their benefits and to all returning service members who are receiving unemployment benefits. Can you explain why the model of combining REAs and reemployment services as proposed in the President's budget is effective in helping people get jobs faster and preventing long-term unemployment?

Answer. There is a compelling rationale for supporting an expanded integrated Reemployment Services and Reemployment and Eligibility Assessment (REA) program to support rapid reemployment of UI claimants and to reduce UI improper payments. Research has shown that both REAs and the provision of reemployment services to UI claimants—and particularly the combination of the two—are effective at reducing UI costs. Both models reduce UI duration and save UI trust fund resources by helping claimants find jobs faster and eliminating payments to ineligible individuals. REAs have been found to be effective in reducing duration and total benefits received by claimants in Florida, Idaho, and Nevada. Nevada's model was particularly effective in reducing benefit costs. A further study of the Nevada model, which delivered REAs seamlessly with reemployment services, found it to be significantly more effective than the other states studied in the following ways:[1]

—Claimants were significantly less likely to exhaust their benefits;

—Claimants had significantly shorter UI durations and lower total benefits paid (1.82 fewer weeks and $536 lower total benefits paid);

—Claimants were more successful in returning to work sooner in jobs with higher wages and retaining their jobs; and

—The savings from the program were almost 3 times higher than the cost.

This integrated approach was also explored in the implementation of the Emergency Unemployment Compensation (EUC) program when it was extended through December of 2013.

In addition, on February 14, 2014, Nevada's REA model was recognized as a "Near Top Tier Initiative" by the nonprofit, non–partisan Coalition for Evidence-Based Policy.

[1] http://wdr.doleta.gov/research/keyword.cfm?fuseaction=dsp__puListingDetails&pub__id=2487&mp=y&start=21&sort=7

QUESTIONS SUBMITTED BY SENATOR JACK REED

JOB CORPS PROGRAM YEAR 2012 SURPLUS

Question. The Job Corps Program ended Program Year (PY) 2012 with a substantial surplus. In January, 20 of my colleagues and I sent a letter urging the Employment and Training Administration (ETA) to prioritize increasing the number of students served with the surplus funds. We also asked that ETA develop a plan for increasing On Board Strength (OBS) in a transparent manner, in collaboration with Job Corps stakeholders. Please provide information on:

—The exact dollar amount of the PY 2012 surplus;

—The factors that led to the surplus;

—How the surplus funds will be utilized, including the dollar amounts that will be allocated for specific activities;

—The plan for increasing OBS, including the timing and allocation by Job Corps center of additional OBS; and

—The steps that the Department is taking to maximize OBS for PY 2013 and PY 2014.

Answer. *The Exact Dollar Amount of the PY 2012 Surplus.*—In consultation with the contractors, the Department determined that there were PY 2012 funds that remained unspent and uncommitted on the center operators' contracts for PY 2013. After an evaluation of the balances remaining on the contracts and negotiations with the contractors, we were able to reduce center operators' funding PY 2013 needs by $40,060,523 due to funds remaining available on these contracts and the ability to spend funds across fiscal or program years. This reduction in center operator needs in PY 2013 allows Job Corps to use the funds to address additional critical needs.

The Factors That Led to the Surplus.—The underrun occurred due to cost savings measures implemented in Program Year (PY) 2012 and the slower than anticipated enrollment of students after the enrollment suspension was lifted in April 2013. Expenditures by contractors were, in a majority of cases, less than what was obligated to the contracts, and that funding remained available on those contracts after the end of PY 2012. DOL worked with the contractors to quantify how much funding remained available on their contracts, as well as to determine their funding needs for the remainder of both the contract year and PY 2013. This collaborative process resulted in the identification of approximately $40 million in obligated but unspent and uncommitted funds that remained on the contracts. We reached agreement with the contractors that this amount would be reduced from their remaining PY 2013 allocations, allowing Job Corps to repurpose the money for the remainder of PY 2013.

How the Surplus Funds Will Be Utilized, Including the Dollar Amounts That Will Be Allocated for Specific Activities.—As a result of the cost savings, Job Corps will re-allocate some PY 2013 funds for crucial needs, including ramping up on–board strength (OBS) to the proposed PY 2014 level, improving Job Corps infrastructure, examining program design, and strengthening procurement support.

Because we are committed to ensuring that the Job Corps program serves as many students as affordable under the appropriation, we have allocated a portion of the recaptured funds to begin to ramp up to the PY 2014 OBS level supported by the Consolidated Omnibus Appropriations Act (Public Law 113–76). 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. The methodology considers performance, center capacity, and prioritization of high-performing Career Technical Training (CTT) programs.

In addition to increasing OBS to the level that can be afforded in PY 2014, we are using the recaptured funds to make important investments in the Job Corps program that have not occurred in recent years due to the budget constraints. These program investments include:

—*Job Corps Infrastructure.*—Job Corps has implemented a much-needed modernization of equipment and technology at Job Corps Centers. A recent survey of Job Corps operators indicated specific equipment needs at Job Corps Centers, many of which were items that are worn, broken, outdated, or have created safety concerns. These equipment purchases were prioritized to help ensure that our students have a safe and effective learning environment where the students are trained on equipment that can continue to meet accreditation standards. This investment includes not only training equipment, but educational and information technology (IT) upgrades that will benefit current and future students.

—*Program Redesign and Streamlining*.—The Program and Requirements Handbook (PRH), the key guiding document for Job Corps activities, is cumbersome and outdated. We are reexamining the program's design to create a more cost-effective program model, while also updating operational standards to better serve today's students. We are dedicating a small portion of the funds to a complete review of the program design and a revision of the 1,371-page PRH. This will be a collaborative and open process, and we have already begun collecting input from Job Corps' many stakeholders.

—*Procurement Support*.—A small portion of the funds is being invested towards responding to a recommendation from the Office of the Inspector General's Job Corps financial audit. This funding will be used to acquire expert assistance through contractors to assist with the preparation of Independent Government Cost Estimates (IGCEs). See Federal Acquisition Regulation (FAR) 15.404–1. An IGCE is the government's own assessment of what a particular scope of work, activity, service, or product needed should cost based on an evaluation of a similar scope of work, activity, service, or product available in the private marketplace. As part of the acquisition process, this expertise will improve the Department's estimate of the operating costs of contracts for Job Corps centers, outreach and admissions, and career transition assistance for students. This is one of many steps we continue to take to ensure contracting integrity and sound financial management.

—*Contract Closeouts*.—ETA is working with Job Corps center operators to reconcile historical obligations to actual costs incurred, such as direct costs for serving students and adjustments to indirect cost rates. We are currently working to review close-out claims submitted by contractors and want to ensure we have funds available to pay all liabilities owed.

The Plan for Increasing OBS, Including the Timing and Allocation by Job Corps Center of Additional OBS.—ETA recently announced the plan for increasing OBS to the PY 2014 levels, and we have begun working with the Job Corps operators to implement it.

The Steps That the Department Is Taking to Maximize OBS for PY 2013 and PY 2014.—The reduction in contracted OBS in PY 2012 was a critical step undertaken to ensure financial stability within the program and establish an OBS level for PY 2013 that was supportable under the fiscal year 2013 appropriation, including sequestration. We are continuing to monitor contractor expenditures against OBS levels as we evaluate the efficacy of our OBS levels and contract amounts. Based on an increased appropriation in fiscal year 2014 and reviews of the contract expenditures and OBS levels, DOL plans to increase OBS levels to a level supportable in PY 2014 to ensure the program serves the most students possible within the appropriation.

REVISION OF PROGRAM REQUIREMENTS HANDBOOK FOR JOB CORPS

Question. The Department has indicated that it plans to undertake a full revision of the Program Requirements Handbook for the Job Corps program. Please provide a detailed plan for the review process, including timelines, staffing requirements, and the estimated cost.

Answer. Job Corps has launched an initiative to re-examine its policies and practices to create a more streamlined, focused and efficient system for the delivery of essential residential, job-based training services to youth to ensure they are prepared with the industry-recognized education and technical credentials to enter and remain attached to the workforce. The process is collaborative, leveraging the depth and breadth of knowledge and experience within the Job Corps community. It will result in a full revision of the program's Policy and Requirements Handbook (PRH). The process, timeline, staffing requirements and estimated costs are as follows.

Action	Timeline
Initiate plan: develop scope, action plan & guiding principles	Complete
Procure Support Contract: develop scope, conduct procurement, award contract	Spring 2014
Launch initiative: conduct webinar series	Complete
Collaborate with ETA partners: Contracting & Budgeting offices to address policy change implications.	Ongoing
Solicit Job Corps community input:	
—Conduct Opinion Request to solicit field policy recommendations	Complete
—Conduct series of Listening Forums to prioritize policy issues	Complete
—Hold policy discussions with Federal Management Team	Spring 2014
—Establish PRH Modernization Workgroup with operator representation. Conduct in-person & virtual meetings.	Spring 2014—ongoing

Action	Timeline
—Develop and launch Web-based Job Corps Community of Practice	Spring 2014—ongoing
Conduct policy review:	
—Form expert field practitioner workgroups	Summer 2014
—Review existing policy & develop new policy recommendations	Summer 2014
—Identify performance expectations, assessment strategies, technical assistance resources.	Fall 2014
—Organize & consolidate all policy recommendations	Fall 2014
Review& assess policy content recommendations: Field review & comment; management decisionmaking.	Winter 2014
Modify accountability systems to align with revised policy: outcome measures, student accountability, reporting; financial management.	Fall 2014–Spring 2015
Conduct training for the Job Corps Community:	
—Design & conduct face-to-face training conferences	TBD
—Develop virtual and online training courses	TBD
Develop transition strategy:	
—Develop procurement transition timeline & revised Statement of Work	TBD
—Establish transition period & target date for implementation	TBD

Staffing Requirements.—The work will be accomplished primarily within existing Federal and contract operator staffing resources. Assistance in soliciting input, organizing and conducting workgroups, consolidating recommendations, revising and indexing content to ensure consistency, and designing and conducting training for the Job Corps system will be provided through a National Office PRH support contract with approximately five FTE, as follows:

Project Director	1 FTE
Project Assistant	1 FTE
Senior Policy & Program Specialist	2 FTE
Subject Matter Experts	1 FTE

Cost.—We are still working on developing the scope of the solicitation, but we anticipate the base contract to be no more than $1 million.

QUESTIONS SUBMITTED BY SENATOR JERRY MORAN

INSPECTOR GENERAL'S REPORT/CORRECTIVE ACTIONS FOR JOB CORPS

Question. Mr. Secretary, the Job Corps program ran significant funding shortfalls in Program Year 2011 and 2012. As a result, enrollment freezes and reductions in on-board strength occurred at Job Corps centers. The Department of Labor's Inspector General released an audit report in May 2013 that reviewed the internal controls in place and found that programmatic, budgetary, and managerial problems as a well as a lack of proper program integrity controls contributed to the budget shortfalls. The fiscal year 2014 Senate Labor/HHS report directed the Department to provide a report no later than December 1, 2013, on the progress of the Department's implementation of the Inspector General's recommendations. While this report is delayed, I hope you can update us on the Department's progress.

What changes have been made in the financial system after the budget shortfalls?

Answer. The Department has implemented strong oversight and cost–saving measures to ensure that the Job Corps program remains solvent and is able to deliver education and vocational services to participants served. ETA's Office of Financial Administration (OFA) has instituted several initiatives to strengthen and coordinate existing controls and create new controls to ensure that obligations stayed within budget and to track contractor expenditures against their submitted spend plans. Working closely with ETA's Office of Contracts Management (OCM), which was created in 2010 to consolidate all ETA contracting in the national and regional offices, OFA ensures that Job Corps' centers cost reimbursements are accounted for in a more timely and accurate way. The added coordination between OFA and OCM has resulted in significant improvements in the financial oversight of Job Corps. In addition, funds have been set aside to integrate the Job Corps program's financial reporting systems with those of ETA to further this critical coordination. Finally, additional training has been provided to staff members who monitor Job Corps contracts to enable them to provide better oversight and improve their ability to monitor these contracts.

Progress toward resolving the issue has been a priority. Of the six recommendations in the Office of the Inspector General's (OIG) report, four are classified by the OIG as "Resolved and/or Closed." ETA is committed to resolving the remaining two

recommendations as soon as possible. Below is the status of the six recommendations. Additional details are available on the Job Corps Web site: http://www.jobcorps.gov/AboutJobCorps/performance_planning/oigreport.aspx.

1. Resolved.—Establish necessary criteria and thresholds for detecting potential financial and program risks to be routinely documented and communicated, and identify the appropriate personnel within DOL to receive this periodic information.

2. In Progress.—Develop and implement formal policies and procedures or enhance existing policies and procedures.

3. Resolved.—Conduct a formal assessment of human capital resources needed for processes and internal controls over Job Corps funds, and periodically update the assessment.

4. In Progress.—Periodically review and update the policy for developing cost models applied in determining the IGCE used in Job Corps center contracting activities to incorporate the use of more current guidance and assumptions.

5. Resolved.—Formally reconcile data on a routine basis between NCFMS, JFAS, and JC–FMS.

6. Resolved.—Evaluate the cost-benefit of creating system interfaces between NCFMS, JFAS, and JC–FMS.

ETA currently is refining the process for OJC planning, requirements determination, budgeting, and evaluation in order to enhance internal controls beyond the actions already taken. This effort will lay out a more defined process for all aspects of OJC financial and contractual activity for a program year well in advance of the start of the year and allow for a more rapid response to OJC budget changes.

Question. What assurances can you give us that additional budget shortfalls will not occur?

Answer. In recent years, we faced a serious challenge when the Office of Job Corps projected a funding shortfall and was temporarily forced to suspend new student enrollment. Job Corps 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. In addition, Job Corps has adjusted student on-board strength OBS to levels that are sustainable within its appropriation and is using improved processes to prevent similar issues in the future as DOL takes steps to increase the OBS. The Employment and Training Administration (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 ensure that Job Corps can prevent future issues and correct for past deficiencies. We are also committed to reviewing the contracting approaches for the program, and determining what type of contracts will allow us to deliver services at the lowest risk and best value to the Federal Government.

Question. What steps have been taken to prevent Job Corps' financial problems from re-emerging?

Answer. ETA has undertaken a variety of measures to strengthen contract oversight and financial management of the Job Corps program. These include thorough analysis and monitoring of 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; and improving contract administration and oversight as well as providing additional training for contracting staff. These necessary changes will ensure that we will not have this problem in the future.

JOB CORPS CENTER CLOSURES

Question. The Administration has stated in both the fiscal year 2014 and fiscal year 2015 budget requests that it plans to close a "small number of centers that are chronically low-performing." In January 2013, the Department issued a notice seeking public comment on the proposed methodology for closing centers. However, no further public action has been taken. Yet, the President's fiscal year 2015 budget request assumes a savings for the Job Corps program of $11.6 million resulting from the closure of centers. Mr. Secretary, does that figure mean that the Department will close centers in fiscal year 2015?

Answer. The Department continues to finalize the closure methodology and plans to issue a Federal Register Notice responding to comments received from the public

and announcing the revised proposed methodology as the next public action. The Department has not yet established a date for publication of the final closure methodology.

Question. If so, how many centers will close?

Answer. The Department continues to finalize the closure methodology and has not yet determined the exact number of centers for closure or the individual centers that will be closed.

Question. What methodology will be adopted for closing centers?

Answer. The Department continues to finalize the closure methodology and will issue a Federal Register Notice responding to comments received from the public.

Question. How will the slots at the centers closing be redistributed throughout the Job Corps program?

Answer. We have not yet made a final decision about slot redistributions. As we move forward with this process, we will work with the Job Corps stakeholder community to take these considerations into account.

JOB CORPS NEW ON-BOARD STRENGTH MODEL

Question. In Program Year 2012, the Employment and Training Administration formulated a new on-board strength model. How will the new on-board strength model help the Job Corps program to better account for operational costs and prevent future budgetary shortfalls?

Answer. The new on-board strength (OBS) model recognizes the relationship between students and costs. The key results of this recognition allowed Job Corps to create a methodology to better account for operational costs, prevent future budgetary shortfalls, and avoid a repeat of past "savings drills." The model provides a new method for Job Corps' budgeting, provides a logical basis for decisionmaking, and recognizes that the center funding level should be based on OBS level—i.e. number of student slots. This model was developed and implemented in February–March 2013. The assumptions of the model are listed below:

—Relationship between center costs and the number of students;

—Variation by each of Job Corps' 29 cost categories for each Center;

—Tie inflation increases to projected increases in the budget;

—Restore reductions to critical academic support areas;

—Base Job Corps student slots on the appropriation level in each Program Year.

While the new model is essential to the continuity of operations, it requires a stable program of operation and accurate and timely submission of costs by Job Corps contractors to be evaluated. The Department continues to work on refining and improving the model.

Question. Were stakeholders consulted in the process of developing this new on-board strength model?

Answer. The on-board strength (OBS) model was developed to identify the affordable levels of OBS based on data supplied by contractors and the appropriated budget. A center's OBS level was initially based on the centers' previous OBS level. ETA and the Job Corps community have established a workgroup to examine current financial management reporting practices in the Job Corps community. ETA has shared the OBS model with that workgroup, though no decisions will come from the workgroup. This workgroup is comprised of Job Corps contractors and other stakeholders. Job Corps is committed to continued open communication with the Job Corps community to harness their expertise.

Question. If so, how were they consulted?

Answer. ETA and the Job Corps community have established a workgroup comprised of Job Corps contractors and other stakeholders to examine current financial management reporting practices in the Job Corps community, and ETA has shared the OBS model with that workgroup, though no decisions will come from the group. In addition, the Department has briefed Congressional staff on the model and continues to work with the contractor community on improving the data used in the model.

SECTOR STRATEGIES

Question. The President's fiscal year 2015 budget requests $15 million for a new Sector Strategies competitive grant initiative that would encourage development and implementation of sector strategies, or partnerships, of local businesses, regional workforce boards, and educational organizations to support and develop the workforce needs of specific industries in that area. A January 2012 GAO report entitled "Innovative Collaborations between Workforce Boards and Employers Helped Meet Local Needs," highlighted Sector Strategies as an important workforce approach for meeting the skill needs of workers and employers within local or regional

economies. Will you share with us the details of the Department's new Sector Strategies initiative?

Answer. The Department's request for $15 million for a new Sector Strategies competitive grant initiative will provide funds to states, regions, or localities to implement sector-based strategies that meet the needs of small, medium, and large businesses in in-demand sectors.

The Department anticipates awarding competitive grants to implement sector-based strategies to meet the dual goals of meeting the needs of businesses while providing training and career advancement opportunities for targeted populations. These grants would support the development of partnerships between the workforce system, business, community colleges, economic development, and others such as organized labor, the adult basic education system, and supportive service providers. The grants also would be used to modify existing training based on business demand as well as train and provide career advancement opportunities for targeted populations such as acutely or chronically long term unemployed, low-wage workers, new labor market entrants, and veterans.

In addition, the Department will award smaller capacity building grants to States to support or promote the development of sector partnerships. State applicants would identify a local or regional area that would pilot the capacity-building activities during the grant period.

Question. In particular, how many grants will be awarded and at approximately what amount per grant?

Answer. Through the Sector Strategies competitive grant initiative, the Department anticipates awarding four to five grants potentially ranging in size from $2–3 million to implement sector-based strategies to meet the dual goals of meeting the needs of businesses while providing training and career advancement opportunities for targeted populations. The Department also anticipates awarding approximately five, smaller capacity building grants to states to support or promote the development of sector partnerships.

Question. How do you plan to involve local industry leaders in this initiative?

Answer. Local industry leaders would be partners and valued customers for all Sector Strategies competitive grants. These leaders would identify critical, immediate workforce needs, inform curriculum design and delivery, provide work-based learning opportunities, and receive integrated business services that meet their workforce needs. Integrated business services are the range of workforce development, economic development, regulatory compliance, and other services available from a variety of Federal, State, and local resources that meet business' needs.

JOB-DRIVEN TRAINING FOR WORKERS PRESIDENTIAL MEMORANDUM

Question. For the last several years, the Government Accountability Office (GAO) has cited duplication across job training programs. In addition to GAO's work, concerns have been raised by the subcommittee about evaluations of job training programs. It is my understanding that the Department continues to work on a "Workforce Investment Act Gold Standard Evaluation," which it has been undertaking since 2011. However, the evaluation's first findings are not expected until the fall of 2015, and final impact findings will not be released until the summer of 2017. Can you explain how the new Job-Driven Training for Workers Presidential Memorandum will accomplish in 180 days what your Department has already been working on for 3 years and will not complete for three more?

Answer. DOL views the Workforce Investment Act Gold Standard Evaluation and the overall job training review that is directed by the Presidential Memorandum as complementary but not identical efforts.

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 broad review of our Nation's employment and training programs to make this vision a reality, focusing on making workforce programs and policies throughout the government more focused on imparting relevant skills, more easily accessed by both employers and job seekers, and more accountable for positive employment and earning outcome results. This review is 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 programs throughout the Federal Government 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 in other agencies

to implement this review and identify concrete ways to help more of American's workers on a faster path to valuable skills and credentials, good jobs, and meaningful careers.

In contrast to the Vice President's review, the Gold Standard evaluation is a long-term evaluation that will determine the impact of services provided to adults and to dislocated workers under the Workforce Investment Act of 1998. The evaluation will produce the first impact estimates in December 2015 as scheduled, and the final impact results in the summer of 2017. The Vice President's review is also focused on improving the accountability for the outcomes of training programs.

I look forward to discussing with the Committee the results of the Vice President's review.

Question. Why have the reports from GAO on job training duplication not spurred any significant budget proposals from the Department on consolidation?

Answer. The GAO report does not recommend that training and employment programs be consolidated. Rather, it recommends better collaboration across programs. The Administration is focused on improving coordination and alignment in the workforce system as GAO has suggested. The Vice President is currently leading an across-the-board review of employment and training programs. One of the key goals of that review is to improve workforce system coordination across program funding streams.

The Administration is also taking steps to improve service delivery and increase coordination and alignment within its current authority as well as through proposals in the President's budget. For example, the Workforce Innovation Fund, launch last year, supports State, regional, and local efforts to wok across program silos to produce better employment outcomes for job seekers and workers. The latest solicitation for grant applications was released in mid-May of this year. The 2015 President's budget requests $60 million for the Workforce Innovation Fund in 2015. In addition, the budget requests $80 million for WIA Incentive Grants, which would provide grants to states that demonstrate strong performance in serving populations with barriers to employment. Since these individuals are likely to be served by multiple programs, States that improve program coordination and alignment will be more likely to receive these grants. The Administration has also sought greater flexibility to blend funding in exchange for greater accountability for outcomes. The proposed Performance Partnership authority was enacted in the 2014 and will permit greater cross-program work to achieve better outcomes for disconnected youth. A slightly expanded version of this authority was reproposed in the 2015 budget.

The 2015 President's budget also includes some proposals to consolidate employment and training programs in a targeted way that protect the most vulnerable populations. The public workforce system, authorized by the Workforce Investment Act, provides States and local areas flexibility in determining how best to implement their job training and employment programs by tailoring the system to meet the needs of local jobseekers and employers and support regional economic growth. Further, the Department's job training and employment programs are geared to serve diverse individuals with specific needs, including veterans, dislocated workers, individuals with disabilities, women, low income youth, Indians and Native Americans, and migrants and seasonal farmworkers. The Department is committed to working with its Federal partners to ensure access to services.

Further, the fiscal year 2015 budget request includes several plans to streamline or align workforce and training services, and it also emphasizes building on what is working and encouraging innovation to improve service delivery and performance. We have 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. Additionally, the budget proposes to consolidate the Trade Adjustment Assistance for Workers and the WIA Dislocated Worker 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.

The Department has also already eliminated some employment and training programs that it viewed as duplicative, including the Community-Based Job Training Grants and the Veterans Workforce Investment Act programs.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS PROGRAM

Question. The President's fiscal year 2015 budget requests $380 million in funding for the Community Service Employment for Older Americans program. The budget also proposes transferring the program to the Department of Health and Human

Services, which the subcommittee has consistently rejected. Mr. Secretary, how does this budget request account for the President's proposed minimum wage increase?

Answer. The number of participants that can be served under the Senior Community Service Employment Program (SCSEP) depends on minimum wages at the national, State or local levels. Consistent with standard practices, the fiscal year 2015 Budget request assumes current law in estimating the number of participants served. As Congress considers raising the minimum wage, the Department of Labor, in conjunction with the Department of Health and Human Services, would be glad to discuss with Congress how various implementation and timing options for a minimum wage increase would affect SCSEP slots.

Question. How would an increase in the minimum wage affect the number of slots available to program participants?

Answer. At the fiscal year 2015 request level, an increase in the Federal minimum wage would increase the participant wage rate and decrease the number of participant slots in areas where the current minimum wage is not at least $10.10. As Congress considers raising the minimum wage, the Department of Labor, in conjunction with the Department of Health and Human Services, would be glad to discuss with Congress how various implementation and timing options for a minimum wage increase would affect SCSEP slots.

H–1B VISA PROGRAM

Question. As part of the H–1B visa program, the Department of Labor currently receives a portion of the fees assessed to companies who apply for these temporary, high-skilled worker visas to provide training to U.S. workers. These training programs are designed to assist American workers in gaining the skills needed to obtain or advance employment in high-growth industries. In addition to annual H–1B fees, the Department of Labor received additional funds from the American Recovery in Reinvestment Act (ARRA) to train Americans. Please provide the subcommittee the following information:

What is the dollar amount distributed from H–1B fees to the Department of Labor for the past 5 fiscal years?

Answer. The Department of Labor collected $668,231,275 in H–1B fees from fiscal year 2009 through fiscal year 2013 for the Job Training for Employment in High Growth Industries program. The distribution of collections by year follows:

	Fiscal year				
	2009	2010	2011	2012	2013
H–1B collections	$110,820,955	$114,026,359	$130,975,268	$161,232,760	$151,175,933

Question. What is total amount of money provided to the Department of Labor from the ARRA?

Answer. The Department of Labor received $4,806,000,000 in discretionary funds from the American Recovery and Reinvestment Act of 2009.

Question. What evidence is there to demonstrate the training funds—both H–1B fees and the ARRA funds—have resulted in meaningful employment for Americans?

Answer. Since 2008, the Department has funded approximately $1.539 billion through the following competitive grants using H–1B fees and American Recovery and Reinvestment Act of 2009 (ARRA) funds appropriated for high-growth and emerging industries (HGEI). (Approximately $750 million of ARRA funds were designated for HGEI grants, compared to over $4 billion in total ARRA funding for Training and Employment Services programs.) Several of these training grants include program evaluations, as described below:

High Growth Job Training Initiative (HGJTI)

The High Growth Job Training Initiative, which began in 2001 and ended in 2013, engaged business, education, and the workforce investment system in the development of integrated solutions to the workforce challenges facing high-growth industries. These industries included Advanced Manufacturing, Geospatial Technology, Aerospace, Health Care, Automotive, Hospitality, Biotechnology, Information Technology, Construction, Retail, Energy, Transportation, and Financial Services. This program was funded by H–1B fees.

The final report[2] documents the national initiative, describes the structure and implementation of projects by selected grantees, and provides non-experimental analysis of the early training outcomes of HGJTI-funded programs, including some information on early impacts of job training activities. Some of these early impacts reported by the grantees demonstrate evidence of meaningful employment for participants. For example: 49 percent of 593 trainees in the Chicago Women in Trades program were placed in jobs with an average earnings of $17.62 per hour; 81 percent of 1,098 dislocated workers in the Community Center Learning Center entered jobs as full-time entry-level aircraft assembler positions earning $10 per hour, and 78 percent retained those jobs; and the High Plains Technology Center had 2,162 training completers of which 74 percent were placed in jobs with an average wage of $14–$18 per hour for floor hands and $26 per hour for derrick hands.

H–1B Technical Skills Training (TST)

The H–1B TST Grant Program, which began in November 2011, provides education, training, and job placement assistance in the occupations and industries for which employers are using H–1B visas to hire highly-skilled foreign workers on a temporary basis, and the related activities necessary to support such training. This program is intended to raise the technical skill levels of American workers so they can obtain or upgrade employment in high-growth industries and occupations. Over time, these education and training programs will help businesses reduce their use of skilled foreign professionals permitted to work in the U.S. on a temporary basis under the H–1B visa program. The grants represent significant investments in sectors, such as information technology, advanced manufacturing, and healthcare. These grants are currently active. The Department is funding an implementation study of this program that will provide a cross-cutting summary of grantees' program operations, including participant recruitment and enrollment practices, program services, and key partner roles and responsibilities, as well as detailed information on special topics of interest and lessons learned. The draft Final Report is expected in the spring of 2018.

H–1B Jobs and Innovation Accelerator Challenge (JIAC)

The Jobs and Innovation Accelerator Challenge (JIAC), which began in October 2011, is designed to help regions achieve the demonstrated benefits of collaborative, cluster-based regional development. This initiative represents the implementation of Administration policy priorities to accelerate bottom-up innovation in urban and rural regions, as opposed to imposing "one-size-fits-all" solutions. The JIAC also meets Administration goals for smarter use of government resources through reduction of Federal silos and promotion of coordinated Federal funding opportunities that offer more efficient access to Federal resources. The three Federal funding agencies for this project include the Department of Labor, Employment and Training Administration (ETA); Department of Commerce, Economic Development Administration; and the Small Business Administration. These grants are currently active.

The study being conducted of the JIAC is a process evaluation that focuses on the regional industry cluster implementation plans, as well as processes and strategies used to develop and accelerate regional economic development that translate into new jobs and increased wages through these regional partnerships. The draft Interim Report is due to ETA in November 2014, and the draft Final Report is expected in the spring of 2016.

H–1B Make it in America (MIIA)

The Make it in America (MIIA) grant program, which began in October 2013 and is funded by H–1B fees, seeks to encourage foreign and domestic businesses to build or expand their operations in the United States. This is intended to accelerate job creation by encouraging re-shoring of productive activity by U.S. firms, foster increased foreign direct investment, encourage U.S. companies to keep or expand their businesses—and jobs—here at home, and train local workers to meet the needs of those businesses. The MIIA also meets Administration goals for smarter use of government resources through reduction of Federal silos and promotion of coordinated Federal funding opportunities that offer more efficient access to Federal resources. The three Federal funding agencies for this project include the Department of Labor, Employment and Training Administration; U.S. Department of Commerce's Economic Development Administration (EDA) and National Institute of Standards

[2] Available at: http://wdr.doleta.gov/research/eta_default.cfm?fuseaction=dsp_resultDetails&pub_id=2478&bas_option=Title&start=1&usrt=4&stype=basic&sv=1&criteria=High%20Growth.

and Technology Manufacturing Extension Partnership (NIST MEP); and, Delta Regional Authority (DRA). These grants are currently active.

The MIIA evaluation will examine partner infrastructures, strategic planning, technical assistance, workforce development resources used for workers to develop the needed skills, as well as the local community clusters. The evaluation will document successes in measureable project outputs, capacity-building outcomes, and realized outcomes that lead to building a highly skilled and diverse workforce to meet employer demand.

ARRA High growth and Emerging Industries (HGEI)

Awarded through the Recovery Act, ARRA High Growth and Emerging Industries (HGEI) grants that focused on training and placement activities included the Energy Training Partnership Grants, Pathways Out of Poverty Grants, State Energy Sector Partnership and Training Grants, and Health Care Sector and Other High Growth and Emerging Industries Grants. These grants ended June 2013.

ETA funded a random-assignment impact evaluation of four grants awarded from two of the ARRA Solicitations for Grant Applications (SGA): Pathways Out of Poverty/Green Jobs and Health Care Sector and Other High Growth and Emerging Industries SGA. The overall aim of this study is to determine the extent to which grantees' participants achieve increases in employment, earnings, and career advancement as a result of their participation in the training provided by the grantees, and to identify promising best practices and strategies for replication. The draft Interim Report is due to ETA in June 2015 and the draft Final Report is expected in December 2016.

Youth Career Connect

These grants, awarded in April 2014, are designed to provide high school students with education and training that combines rigorous academic and technical curricula focused on specific in-demand occupations, particularly in science, technology, engineering, and math (STEM) related fields. An evaluation of these grants is in the early stages of planning at the Department.

H–1B Ready to Work Partnership Grants

These grants, totaling approximately $150 million, are being competed in spring 2014 and expected to be awarded in fall 2014. They will be focused on providing long-term unemployed workers with individualized counseling, training and supportive and specialized services leading to rapid employment in occupations and industries for which employers use H–1B visas to hire foreign workers. The grants will support public-private partnerships that include the workforce investment system; training providers, such as community colleges and community-based and faith-based organizations; and businesses including at least three actively engaged employers. As part of its commitment to producing strong evidence on effectiveness its programs, the Department is requiring full participation in a planned impact evaluation as a condition of all grants awarded in this competition.

Quarterly Performance Reporting

Grantees for the above programs report key outcomes (entered employment rate, employment retention rate, and average earnings) each quarter for participants who have exited the program. These outcome data are not yet available for the H–1B, TST, JAIC, or MIIA programs, as grantees complete a mandatory planning period before enrolling any participants, and most participants have not yet exited training programs. Quarterly performance outcomes from these programs will be posted as they become available at: http://www.doleta.gov/performance/results/#etaqr. Archived outcome data are available at: http://www.doleta.gov/performance/results/Archive__Reports.cfm for the HGJTI (see December quarterly reports for 2008–2012 and March 2013) and ARRA HGEI programs (see June 2013).

Question. What percentage of individuals receiving H–1B funded training obtains employment after completing that training?

Answer. Through the High-Growth Job Training Initiative (HGJTI) grants, which operated from 2003 through 2013, 63,716 participants completed training activities. Of these, 28,753 were placed into positions of new employment. The Entered Employment Rate for completers is 45 percent. Prior to new reporting requirements implemented in the quarter ending December 31, 2011, grantees only reported results for individuals who entered employment if those participants entered employment and completed training in the same quarter. As a result, the total number of individuals that ultimately entered employment and training-related employment are actually higher than the results above indicate.

The current H–1B funded training grants, awarded at different times since October 2011, have served 43,606 participants as of December 31, 2013, including 9,967

who were unemployed at enrollment. Of these unemployed participants, 8,835 began training by December 31, 2013, including 3,762 who completed training. Of these training completers, 1,990 (52 percent) entered employment by December 31, 2013. These H–1B grants are at different stages of their grant periods of performance, including some that were still in the planning and startup phase and had not yet enrolled participants during the latest (December 2013) reporting period.

Question. What is the average timeframe for receiving employment after receiving H–1B funded training?

Answer. The Department cannot calculate an average time from training completion to entering employment because it does not collect data on individual hire dates. The Department tracks an entered employment rate based on the number of participants who are employed in the quarter after the quarter in which they exited the program. (See http://wdr.doleta.gov/directives/attach/TEGL17-05_AttachA.pdf.)

Question. Does the Department collect data on whether individuals receiving H–1B funded training remain employed 1 year after they are trained?

Answer. The Department collects employment retention data using the Common Performance Measures. The Employment Retention Rate is based on the number of people who were employed in the first quarter after they exited the program and are still employed up to 9 months after exit.

For the current H–1B funded investments, the Employment Retention Rate (which includes both unemployed and incumbent worker participants) is 99 percent for the quarter ending December 31, 2013.

Question. How does H–1B training help the long-term unemployed?

Answer. Of the more than $340 million awarded in two rounds of H–1B Technical Skills Training (TST) grants in fiscal year 2012, the Department designated more than $200 million for grantees serving the long-term unemployed.

In addition, in February 2014 the Department announced the Long-term Unemployed H–1B Ready to Work (Ready to Work) Partnership grant program, currently open for solicitation of grant applications. The Ready to Work grant program will utilize approximately $150 million in H–1B funds for projects that recruit long-term unemployed workers and employ strategies that are effective in getting them back to work in middle to high-skill occupations. The Department is planning a rigorous evaluation of these grants.

GOVERNOR'S SET-ASIDE

Question. The fiscal year 2014 omnibus increased the Governor's Set-Aside to 8.75 percent. This program has been successful with states that use the funding for state-wide or regional employment initiatives. In Kansas, it is my understanding that the State intends to use the additional funding from fiscal year 2014 to support employment services for veterans. Specifically, Kansas plans to hire a point person at Fort Riley, the state's largest military installation, to provide case management services to exiting service members. With improved coordination of services, the State is confident it can improve the employment outcomes of its veterans. However, there is concern from the State that until the Governor's Set-Aside is restored to its authorized level of 15 percent, limited resources will prevent the State from assisting more veterans in finding jobs as they transition to civilian life. Why does your Department not support restoring the Governor's State Set-Aside to its fully authorized level so that states will have the resources and flexibility they need to pursue promising ventures such as the one I have referenced?

Answer. The 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 fiscal year 2015 budget does, however, request the continuation of the reserve at the fiscal year 2014 level, which allows for fundamental state oversight and accountability activities. Increasing the State reserve without increasing formula funding would cut into local funding. The Department will continue to work with States to identify ways to operate within these funding levels while continuing essential activities.

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Opportunity, Growth, and Security Initiative proposed in the 2015 budget acknowledges this, and included funds to restore prior cuts in the formula grants. The fiscal year 2015 budget does, however, request the continuation of the reserve at the fiscal year 2014 level, which allows for fundamental state oversight and accountability activities. Increasing the State reserve without increasing formula funding would cut into local funding. The Department will continue to work with States to identify ways to operate within these funding levels while continuing essential activities.

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

GULFPORT, MISSISSIPPI JOB CORPS CENTER

Question. Secretary Perez, the Job Corps center in Gulfport, Mississippi was badly damaged during Hurricane Katrina in 2005. The former Secretary of Labor, Secretary Solis, committed to work with me to ensure that the Gulfport Job Corps Center is rebuilt and able to return to serving the number of young people that it once served. Here we are, nearly 9 years later, and this center has yet to be fully repaired. Is this acceptable to you?

Answer. The Gulfport Job Corps Center was closed due to extensive damage caused by Hurricane Katrina in late 2005. The center occupies the former 33rd Avenue High School, which is eligible for inclusion in the National Registry of Historic Places as it dates back to 1921 as the only Gulfport high school that served African-American students until Gulfport schools were integrated in 1968. The property and buildings are owned by the City of Gulfport and leased to Job Corps. Work began in 2006 to determine whether existing buildings could be repaired and renovated. A determination was made in 2007 that this option was not feasible due to the condition of the structures and environmental remediation costs. DOL contracted a design/build contractor in 2008 to include demolition and construction of temporary modular facilities to reopen the Center. Temporary center facilities were completed in late 2009, a contract for a Center operator was procured, and the Center reopened with a reduced student population in 2010 (the current OBS is 107). The construction design of the new permanent Center was completed and a construction contract was awarded in 2011. However, alumni of the 33rd Avenue school objected to the demolition of the historic buildings and invoked the historic preservation laws. DOL conducted extensive negotiations and meetings with the community, but when no agreement was reached, the construction contract was cancelled in March 2012. At the community's request, DOL hired a local contractor to assess issues regarding renovation and preservation, and the report was received in December 2013. Before the structural analysis can be completed, the site needs significant remediation to determine whether any of the buildings (or parts thereof) are structurally sound enough to be preserved. We are currently revising the scope of work for the assessment and stabilization of the buildings. Once the scope is completed, we anticipate issuing a request for proposal by June 30, 2014.

Question. What are you doing to fix it?

Answer. Job Corps has worked extensively to address the historic preservation concerns of the community. At the community's request, DOL hired a local contractor to assess options for renovation and preservation, and the report was received in December 2013. The site needs significant remediation before the structural analysis on whether any of the buildings (or parts thereof) are structurally sound enough to be preserved as part of the new Center can be completed. We are currently revising the scope of work for the assessment and stabilization of the buildings. Once the scope is completed, we anticipate a request for proposal by June 30, 2014.

Question. Secretary Perez, we have three Job Corps centers in Mississippi that serve hundreds of underprivileged young people. How does the Department's budget request seek to resolve issues in the Job Corps program caused by poor planning by the Department so that Job Corps centers are not forced to continue to lay off employees and reduce the number of students they serve?

Answer. In recent years, we faced a serious challenge when the Office of Job Corps projected a funding shortfall and was temporarily forced to suspend new student enrollment. Job Corps 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. We have made necessary changes that will prevent similar issues in the future.

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 rou-

tinely reconcile accounting systems data. Improvements implemented since 2013 include thorough analysis and monitoring of 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; and improving contract administration and oversight as well as providing additional training for contracting staff.

The reduction in contracted on-board strength (OBS) at the end of the enrollment suspension in April 2013, was undertaken to ensure financial stability within the program and establish an OBS level for Program Year (PY) 2013 that was supportable under the fiscal year 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 as we evaluate the efficacy of our OBS levels and contract amounts to inform future discussions about increasing OBS system-wide.

Question. Have you planned accordingly for the upcoming fiscal year?

Answer. Yes, the reduction in contracted on-board strength (OBS) in 2013 was undertaken to ensure financial stability within the program and establish an OBS level for PY 2013 that was supportable under the fiscal year 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 as we evaluate the efficacy of our OBS levels and contract amounts. Based on an increased appropriation and reviews of the contract expenditures and OBS levels, DOL plans to increase OBS to a level that is supportable in PY 2014.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

H–2B RULES

Question. The Department has repeatedly proposed H–2B rules that would add regulatory burdens and costs to American businesses. In particular, the 2011 wage rule could have increased H–2B hourly wages by upwards of 50 percent. Many small businesses that use the H–2B program cannot afford this regulation and may ultimately close, which will result in more job losses, including putting the American jobs at those businesses at risk. The fiscal year 2012 Labor/HHS appropriations bill prohibited the Department from moving forward with this dangerous rule. That prohibition was continued through fiscal year 2013. However, since that time, the Department announced it will move forward with a re-proposal of the 2011 wage rule. Mr. Secretary, why is your Department moving forward with a re-proposal of the 2011 wage rule, despite overwhelming opposition from Congress, industry leaders, and stakeholder interests who feel this rule is unworkable and will ultimately undermine the program?

Answer. The Department does not plan to "re-propose" the prevailing wage rule issued in 2011, but will work off of its provisions in developing a proposal for consideration by the regulated community and other interested parties on a final wage rule in the H–2B program. Following litigation in which a court invalidated the regulatory provision setting forth skill levels to set the prevailing wage in the H–2B program, the Department issued an interim final rule in April 2013 (2013 IFR) that eliminated the use of skill levels in setting the prevailing wage. Instead, where there is not a collective bargaining agreement that governs the wage determination, the Department will set the prevailing wage as the mean of the wages of similarly employed workers in the geographic area of employment. Under the 2013 IFR, the Bureau of Labor Statistics' Occupational Employment Statistics (OES) Survey is used to determine the mean wage of similarly employed workers in the geographic area, unless the employer requests a wage determination based on another source, such as wage surveys for workers employed under Federal government contracts or statistically sound private surveys. The Department invited public input on the 2013 IFR and received over 300 public comments. In light of those public comments, recent developments in the H–2B program, Congressional actions, and judicial decisions, the Department has determined that further notice and comment on setting the prevailing wage in the H–2B program is warranted. Therefore, DOL intends to publish a notice of proposed rulemaking on the proper wage methodology for the H–2B program, working off of the 2011 Wage Rule as a starting point. The Department will review comments on the 2013 IFR, along with comments we receive after we publish the notice of proposed rulemaking prior to issuing a final rule.

GOVERNOR'S SET-ASIDE

Question. The Governor's Workforce Investment Act set-aside allows 15 percent of Workforce Investment Act funding to be used by the Governor, at the state-level, to pursue creative workforce development initiatives. Limiting the amount of funds available to Governors' workforce training initiatives stifles state-wide and regional employment training efforts. Governors are uniquely equipped to identify and address the workforce training needs of their state's local employers and should be given the tools necessary to do so. Why does the Department not support increasing the set-aside to 15 percent?

Answer. The 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 fiscal year 2015 budget does, however, request the continuation of the reserve at this level, which allows for fundamental state oversight and accountability activities. The Department will continue to work with States to identify ways to operate within these funding levels while continuing essential activities.

Question. Are you concerned that under the reduced set-aside Governors no longer have the flexibility to implement innovative statewide projects?

Answer. Investments in innovation are essential to helping the public workforce system identify and implement more efficient and effective ways of equipping workers with the skills employers' need. The Department is committed to spurring innovation in the public workforce system, and the fiscal year 2015 budget request includes several initiatives that directly support innovation, such as the Workforce Innovation Fund. The Department has taken care to design these initiatives in ways that ensure states are positioned to compete for or otherwise leverage these resources through partnerships. In addition, the 2015 budget proposes a revamped WIA Incentive Grant program, which would provide grants to states that demonstrate the ability to achieve positive outcomes for populations with barriers to employment. States that are innovative and work across program siloes will be best positioned to receive these grants. Although structurally different from the Governor's reserve, these national initiatives support significant increases in partnership, flexibility, dissemination, and coordination of strategies.

BUREAU OF INTERNATIONAL LABOR AFFAIRS (ILAB)

Question. Mr. Secretary, since this Administration took office in 2009, the Bureau of International Labor Affairs' (ILAB) has grown significantly. Comparing fiscal year 2009 funding to the budget requested in fiscal year 2015, ILAB's budget will have increased 6.2 percent, with the office growing by 22 full-time employees, a 26.5 percent increase. In this constrained budget environment, wouldn't the Department's funding be better spent on training workers in the United States as opposed to using taxpayers' dollars to establish labor unions abroad?

Answer. The Department of Labor is committed to supporting workers in the United States and ensuring that those workers, and the businesses in which they are employed, have a fair playing field with respect to worker rights in the global economy. These efforts seek to prevent workers and businesses in the United States from facing unfair competition based on the violation of worker rights. ILAB promotes respect for internationally recognized worker rights, improves working conditions and workplace safety, and combats exploitive child labor, forced labor, and human trafficking in other countries, particularly among key trading partners.

The increases in ILAB's budget beginning in fiscal year 2009 were preceded by several years of sharply declining budgets for the bureau—from nearly $150 million in fiscal year 2003 to $82.5 million in fiscal year 2008. These budget reductions occurred in the context of an increasing workload for ILAB related to expanded trade agreement monitoring, congressionally required reporting, and ongoing technical assistance oversight responsibilities. In fiscal year 2009, ILAB's budget was increased to enable it to more effectively carry out its mandates and to address strategic areas. Since fiscal year 2010, ILAB's budget has remained stable or has declined. The budget request for fiscal year 2015 of $91.3 million and 105 FTE remains at approximately the same level as the fiscal year 2014 appropriations.

To meet its mandates and address strategic areas, ILAB has added full time employees since fiscal year 2008 primarily to the following three areas:

—Research and analysis to meet statutory reporting responsibilities related to child and forced labor;

—Monitor labor conditions in current or prospective U.S. trading partners, enforcement of labor provisions of free trade agreements, and labor eligibility criteria of trade preference programs; and
—Monitor, evaluate, and audit grant-funded projects to ensure effectiveness, impact, and management and financial accountability.

WORKFORCE INNOVATION FUND

Question. Mr. Secretary, I remain concerned that as more workforce training programs become competitively awarded they will not reach those for whom training programs are intended. I also have reservations specific to the competitively awarded Workforce Innovation Fund. The fiscal year 2015 budget requests a fifth year of funding for a program whose outcomes are unknown. In a time when our national unemployment rate is 6.7 percent, the Workforce Innovation Fund does not provide any direct services to jobseekers. Wouldn't funding be better utilized on programs that directly serve jobseekers?

Answer. Almost all WIF grants directly serve job seekers, youth, and/or business customers, with the exception of two grants focused on the delivery of workforce information and integration of performance data systems. The Workforce Innovation Fund (WIF) invests in innovative approaches to the design and delivery of employment and training services that generate long-term improvements in the performance of the public workforce system, outcomes for job seekers and employers, and cost-effectiveness. The 28 current WIF grantees are testing a variety of innovations in four categories: sector strategies and business engagement (including entrepreneurship training); career pathways and system alignment; data systems and online service delivery; solutions for targeted populations; and Pay for Success, an innovative funding model. In addition, WIF grants leverage significant funds from Federal, state, and local workforce development programs, to support long-term sustainability of effective innovations. The goal of these grants is for these innovations, products, and models to help make the broader workforce system more effective, leading to better, more cost-effective services for individuals across the system.

Because the WIF grants are testing a variety of innovations, performance measures vary by project. Examples include the DOL common performance measures (entry to employment, employment retention, and 6 months average earnings), credential attainment, businesses started, number of businesses served, employer satisfaction with job candidates, and participants that attain permanent housing. In aggregate, the current WIF grantees are expected to serve nearly 38,000 adults, 2,800 youth, and 6,600 businesses. Details about the WIF grants can be found at innovation.workforce3one.org.

Question. Are you concerned that the Workforce Innovation Fund siphons off funding that could otherwise be distributed to every state for training efforts, but now is instead only awarded to a few grantees?

Answer. The Workforce Innovation Fund (WIF) makes efficient use of scarce resources by awarding funds competitively to experiment and build information about effective approaches, and disseminating this knowledge to the broader workforce system. WIF findings, products, models, and results are then shared widely with the workforce investment system. The resources are improving the quality and efficiency of the entire workforce system. For example, through the "Eye on Innovation Stakeholder Engagement Series," the Employment and Training Administration will share promising practices from WIF grantees on business services, systems alignment and career pathways, data systems, and online service delivery with other WIF grantees and the public workforce system throughout this summer. Technical assistance provided to the WIF grantees is available to the entire workforce system at innovation.workforce3one.org.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION'S REGIONAL EMPHASIS PROGRAM

Question. Mr. Secretary, it is my understanding that the Occupational Safety and Health Administration (OSHA) has announced formation of a Regional Emphasis Program targeting auto parts supply manufacturers in Alabama, Georgia, and Mississippi. OSHA is looking at excessive "workplace exposures to safety hazards" in the Southern states' auto parts manufacturing industry. What defines "excessive workplace exposure to safety hazards," what data do you have to support this claim, and how is that data collected?

Answer. OSHA has been conducting Regional Emphasis Programs (REPs) since the early 1980s. They are designed to focus OSHA's resources in areas where a regional or local office has determined that special attention is needed.

In order to determine which industries may need special attention, OSHA uses a combination of data resulting from OSHA's recent inspection activity in the indus-

try in that area, as well as injury and illness rates, when available. Over the past 5 years, OSHA has been responding to worker complaints, fatalities, and injuries in the automotive parts manufacturing industry in Georgia, Alabama, and Mississippi. In response to the complaints and referrals, OSHA conducted inspections in these regions.

For example, in 2013 a worker employed at a plant in Alabama that had been inspected by OSHA on more than one occasion since 2006, suffered a double amputation. OSHA found eight violations of safety standards in those inspections. Another plant covered by the emphasis program had seven inspections since 2009, with findings of serious and willful violations. Inspections like these led to the decision to start the Regional Emphasis Program.

Worker injury and illness data supports the decision to focus on worker safety in 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.

Below are the rates for the auto supply industry, both nationally and in Alabama (2010 was the last year that Alabama data was available for this industry.)

DART Rates	Annual									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
NAICS 3363 US	5.1	4.5	4.4	4.3	3.7	3.3	2.6	3.0	2.7	2.8
NAICS 3363 Alabama	.....	.....	.....	3.4	3.9	3.3	3.0	4.6		

Source: BLS SOII

The all-industry private sector average injury and illness rate in Alabama and the United States in 2010 was 1.8 per 100 full-time workers, meaning that the Alabama auto supply industry has an injury and illness rate more than two and a half times higher than the overall injury and illness rate for all private workplaces in Alabama.

Question. Your Department claims to have undertaken efforts to address these hazards through cooperative efforts and compliance assistance "for several years" prior to announcing formation of a Regional Emphasis Program. In exact terms, how many years did your department provide compliance assistance to these manufacturers?

Answer. OSHA always stands ready to provide compliance assistance to businesses that request it. Most of OSHA's Area Offices have a Compliance Assistance Specialist whose sole job is to provide assistance to organizations that request assistance. You may also be aware that OSHA funds a free on-site consultation program for small and medium-sized businesses. (https://www.osha.gov/dcsp/smallbusiness/consult.html)

The REP was initiated after a long period of working cooperatively with the industry to address the safety and health problems in the workplace. OSHA began a partnership in 2005 with an auto manufacturer (Hyundai) and its suppliers. During the partnership, OSHA provided the auto supplier manufacturing industry with a great deal of compliance assistance and education to help correct serious safety and health hazards. OSHA, however, continued to find a high number of serious safety and health hazards during inspections (resulting from complaints or referrals) in the auto supplier manufacturing industry, so OSHA ended the partnership in 2010.

OSHA's emphasis programs begin with compliance assistance. Employers are notified of the program and offered information and training on OSHA standards and the tools they need to assure that they can come into compliance before an OSHA inspection.

Thirty days prior to launching the Regional Emphasis Program, OSHA sent a letter offering information about the hazards we were targeting, as well as training and presentations about how to prevent injuries and illness related to these hazards. This provided the employers the opportunity to seek assistance or contact the consultation services. The REP was also included in speeches presented by OSHA to different groups and organizations in the Southeast.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

PROPOSED SILICA RULE

Question. My staff has heard from many different stakeholders who have testified during Occupational Safety and Health Administration's (OSHA) public hearing sessions, and each of these industries have signaled how difficult it would be to comply with the proposed rule.

How can you assure us that OSHA will actually produce a Final Rule that reflects the concerns expressed at these hearings?

Answer. OSHA carefully considers the concerns expressed by all stakeholders, along with supporting data and other evidence, in developing a final rule. The Occupational Safety and Health Act of 1970 (the OSH Act) mandates that any final rule issued by OSHA must be feasible for affected industries, and must be supported by substantial evidence in the record considered as a whole [29 U.S.C. 655(b)(5); 29 U.S.C. 655(f)]. Accordingly, OSHA will consider the concerns expressed by stakeholders regarding their ability to comply with the proposed rule in developing a final rule.

Question. When do you expect OSHA to issue a Final Rule?

Answer. OSHA has not established a target date for issuing a final silica rule. The Agency is accepting post-hearing comments on the proposed rule from hearing participants until June 3, 2014, and will be accepting post-hearing briefs until July 18, 2014. OSHA will then review the evidence in the record as a whole and develop a final rule, if appropriate, based on that evidence.

Question. What would it cost a manufacturing plant, which operates in an enclosed environment, and employs 1,000 people, to comply with this proposed regulation?

Answer. OSHA did not develop a cost estimate specific to the facility you describe. Manufacturing establishments vary enormously in their costs per employee depending on the nature of their operations.

Question. The proposed rule requests commenters to submit information about their financial backers if they submit scientific or technical data. How many commenters have done that?

Answer. After searching the public comments submitted to the silica docket, we found very limited information pertaining to such disclosures. Several commenters have either disclosed funding sources or indicated that they did not receive funding. We have also received general comments both supporting and objecting to OSHA's request for disclosure.

Question. In what way has this information contributed to the rulemaking?

Answer. The request for this information is voluntary, and not required for submitting comments. OSHA has a legal responsibility to review and consider all material submitted to the rulemaking record in its development of a final rule and supporting analyses and will do so. The Agency believes that this voluntary request will only serve to enhance the transparency of the process.

WAGE DETERMINATIONS ON MILITARY BASES

Question. The National Restaurant Association said in a March 20 letter to DOL, that the Wage and Hour Division, for the first time instituted a new health and welfare benefit of $3.81 per hour on fast food occupations under the Service Contract Act. These fast food franchises that operate on military installations, like Fort Campbell in Tennessee and Kentucky, or Fort Bragg in North Carolina provide military personnel and their families a fast alternative to eating at the cafeteria, while not to mention, employ a few dozen young workers at each location. This new health and welfare benefit, coupled with the President's Executive order increasing the minimum wage, has some fast food operators facing a 50 percent increase in wages.

What is the reason for the first time application of this fringe benefit?

Answer. The Department's Wage and Hour Division is responsible for determining what prevailing wages and benefits are under the Service Contract Act.

In reviewing the fast food wage determinations last summer, 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, and did so for fast food workers.

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.

Question. Are you concerned that some fast food operators will have to close their location on military installations? And what will this do to small business operators?

Answer. 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.

QUESTIONS SUBMITTED BY SENATOR MIKE JOHANNS

NEW WHD RULE AND ELIMINATION OF COMPANIONSHIP EXEMPTION

Question. In September 2013, the U.S. Department of Labor (DOL) announced a final rule that essentially eliminated the Companionship Exemption (minimum wage and overtime exemption for non-medical companion care workers). The new regulation is scheduled to go into effect on January 1, 2015. The final rule posted in the Federal register indicated that this new rule is likely to have an annual effect on the economy in excess of $100 million. Does your Department intend to issue further guidance to state Medicaid programs and other stakeholders on the complex implementation of this rule? If so, when does it plan to do so?

Answer. The Department has been very active in providing compliance assistance to all stakeholders since issuing the companionship services rule, including webinars and meetings specifically for state Medicaid programs. The Department has also had a number of meetings and other communications with representatives from various states to discuss the regulation's impact on their particular Medicaid programs, and anticipates having more such conversations as implementation continues. The Department has engaged with the disability community around issues of particular importance to them, including the Medicaid services designed to allow people living with disabilities to remain in their homes and communities. The Department continues to develop and issue guidance, including the recent Administrator's Interpretation specifically regarding shared living arrangements, most of which are funded through Medicaid programs, and has additional webinars and meetings scheduled to further inform the regulated community about implementation matters. The Department will develop additional guidance as issues are brought to us for clarification. In all of these efforts, we continue to work closely with our colleagues at the Department of Health and Human Services, and in particular the Centers for Medicare and Medicaid Services.

Question. Do you think that states will have enough time to implement this final rule without undermining quality and access to care for Medicaid beneficiaries?

Answer. The Department adopted a 15-month delayed implementation when it published the regulation on October 1, 2013. This delayed effective date was intended to allow state Medicaid programs sufficient time to make adjustments to their programs so neither the quality of, or access to, the programs will be disrupted.

Question. Would you consider delaying the rule if states assert that they will not have time to implement the rule without disrupting quality and access to care for Medicaid beneficiaries?

Answer. The Department is constantly monitoring implementation of the companionship services rule and will make appropriate adjustments as indicated.

Question. Under this final rule, do you believe it is likely that home care recipients will attempt to control costs by independently hiring caregivers other than those employed by home care companies?

Answer. We have no information that indicates that consumers will hire home care providers directly rather than continuing to purchase these services through home care agencies.

Question. If so, will this result in fewer caregivers being in a position to receive healthcare through an employer?

Answer. We have no information that would indicate this result.

UNION PRESENCE DURING OSHA INSPECTIONS

Question. According to a February 2013 OSHA letter of interpretation, an unspecified number of employees in a nonunion workplace may designate a union as their representative during safety inspections, even though the majority of workers have not authorized the union as their representative for any purpose. Do you believe that OSHA inspectors can remain neutral enforcers of the law if they are accompanied by outside union organizers when they inspect nonunion employers' private property?

Answer. The status of OSHA inspectors as neutral enforcers of the law does not change when they are accompanied by third party "walk-around" representatives. 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.

OSHA INSPECTION OF FAMILY FARMS

Question. Regarding the inspection of family farms, in the letter I received from you dated February 10, 2014, you said "DOL will issue new guidance after consulting with USDA and with organizations representing farmers." Could you provide me with a list of meetings and discussions you or your staff have had with USDA, farm organizations, and other relevant groups regarding revisions to the guidance on postharvest activities on farms with more than 10 employees? Please include the name of the entity and the date of contact. I encourage you to actively consult with as many of the farm groups and producers throughout the country as possible before moving forward in this area. These are the people who know best what happens on a daily basis on America's farms. Finally, I encourage you to ensure that any revised guidance draws as bright a line as possible between OSHA regulations and farming operations with 10 or fewer employees in order to ensure that the agency abides by the law.

Answer. On January 31st, Department of Labor staff met with representatives from the USDA to consult with them regarding OSHA's guidance defining farming operations. OSHA has developed draft revised guidance to ensure that OSHA inspectors understand the limitations on OSHA's authority to conduct enforcement activities involving farming operations and will consult with USDA and other groups before finalizing the guidance. OSHA is currently in the process of contacting other farming groups such as the Farm Bureau to discuss its revised guidance.

REDEFINING FIDUCIARY UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT

Question. As you know, there has been a lot of concern surrounding the Department of Labor's proposed rule to redefine who is a fiduciary for plans regulated under the Employee Retirement Income Security Act (ERISA). A rule was proposed and then withdrawn, and Assistant Secretary Borzi is reportedly working on a re-proposal. My colleagues and I, in a strong bipartisan fashion, have expressed concern about the rule's potential impact on small savers, investor choice and small business. All of us certainly want to ensure that beneficiaries receive unbiased financial advice and we want to protect investor interests, whether someone is saving for retirement or for a child's college education fund. Thus, we must ensure that a re-proposed rule will not ultimately harm the very beneficiaries we're trying to help. Can you assure us that the Department's re-proposal will not increase the cost of IRA accounts or harm investor choice?

Answer. 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 regularly engage with stakeholders and solicit their views on a range of issues, and we welcome input from those who want to help us improve this marketplace before we make any decisions. The President has been clear that he is committed to strengthening retirement security for all Americans and we continue to believe that the most secure retirement requires a three-legged stool of social security, pensions, and personal savings.

Question. Will your expanded definition of fiduciary align with the SEC's definition? It is essential that any rule changes still allow broker-dealers to provide affordable financial advice to working class Americans.

Answer. 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.

Question. Also, Ms. Borzi has said that the re-proposal will be out this year. When can we expect to see it?

Answer. We have not made a decision, and we would not make a decision before we have listened to all sides, as we have committed to do.

SUBCOMMITTEE RECESS

Senator HARKIN. With that, the subcommittee stands adjourned.

[Whereupon, at 11:10 a.m., Wednesday, April 9, the subcommittee was recessed, to reconvene subject to the call of the Chair.]